

No. 10972

2406

United States
Circuit Court of Appeals
For the Ninth Circuit.

GEORGE CLAYTON,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.


Transcript of Record
In Two Volumes
VOLUME I
Pages 1 to 264

Upon Appeal from the District Court of the United States
for the Eastern District of Washington,
Northern Division

FILED

JUL 11 1945

PAUL P. O'BRIEN,
CLERK



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS
OF RECORD:

ROBERTSON AND SMITH,

Spokane & Eastern Bldg.
Spokane, Washington

HAROLD M. GLEESON,

Sherwood Building,
Spokane, Washington

EDWARD M. CONNELLY,

United States District Court
334 Federal Building,
Spokane, Washington

In the District Court of the United States
for the Eastern District of Washington
Northern Division

No. C-7702

UNITED STATES OF AMERICA

Plaintiff,

vs.

WILMA SHIRLEY DOORES,
EDWARD WILLIAM KELLY, and
GEORGE CLAYTON,

Defendants.

INDICTMENT

VIO: Sections 76, 88, Title 18 U.S.C.A.

The Grand Jurors of the United States of America for the Eastern District of Washington, duly impaneled, sworn and charged to inquire into and concerning the commission of crime within said District, upon their oaths do find, charge and present:

COUNT ONE

That Wilma Shirley Doores, Edward William Kelly, and George Clayton, in Spokane County and within the jurisdiction of the Northern Division of the United States District Court for the Eastern District of Washington, commencing some time shortly prior to April 9, 1944, the exact date being to the Grand Jurors unknown, and continuing thereafter to on or about May 25, 1944, did willfully, unlawfully and feloniously conspire, combine,

confederate and agree together, and each with the other and each with diverse other persons to the Grand Jurors unknown, to commit crimes and offenses against the United States as follows, to-wit: To violate Title 18, Section 76, U.S.C.A. in the following manner and by the following means:

That the said defendants did conspire, combine and agree that the defendant Edward William Kelly, with intent on the part of each of said defendants to defraud one Dr. E. H. Teed of Coeur d'Alene, Idaho, a practicing physician of that city, of money and narcotic drugs, would falsely assume and pretend to be an officer acting under the authority of the United States, to-wit, an inspector and officer of the Narcotics Division of the United States of America, and that the said defendant Edward William Kelly would take upon himself to falsely act as such inspector and officer of the Narcotics Division of the Treasury Department of the United States of America, and in such pretended character as such officer would threaten to arrest the said Dr. E. H. Teed for unlawfully disposing of narcotic drugs, which the defendant, Wilma Shirley Doores, [1*] would induce the said Dr. E. H. Teed to unlawfully sell and dispose of to her, the said money and narcotic drugs so to be fraudulently obtained from the said Dr. E. H. Teed were intended by said defendants to be secured from the said Dr. E. H. Teed by the said defendant Wilma Shirley Doores in consideration of the said

*Page numbering appearing at foot of page of original certified Transcript of Record.

Edward William Kelly, while acting in his pretended capacity as a narcotics agent of the Treasury Department of the United States, failing to arrest, apprehend or institute prosecution against the said Dr. E. H. Teed for unlawfully selling and disposing of narcotics to the said defendant Wilma Shirley Doores. That in pursuance of the said unlawful conspiracy hereto described, the said defendants did knowingly, willfully, unlawfully and feloniously do and perform the following overt acts, to-wit:

OVERT ACTS

1. That the said Wilma Shirley Doores on several occasions prior to April 10, 1944, did secure from the said Dr. E. H. Teed, in an illegal manner and in violation of law, certain quantities of narcotics.

2. That the said Edward William Kelly on various occasions, commencing April 10, 1944 and ending on May 18, 1944, did represent to the said Dr. E. H. Teed of Coeur d'Alene, Idaho, that he was an inspector and officer of the Narcotics Division of the Treasury Department of the United States of America, and as such was acting under the authority of the United States and of the Treasury Department.

3. That the said Edward William Kelly, on or about April 16, 1944, did represent to the said Dr. E. H. Teed that he had heard that the said Dr. E. H. Teed, was selling and disposing of narcotics to the said Wilma Shirley Doores, and to others,

in a manner contrary to the laws of the United States, and that he was ready to arrest the said Dr. E. H. Teed and would return later on the same day for the purpose of effecting the arrest of the said Dr. E. H. Teed.

4. That the said defendant Wilma Shirley Doores on or about the 17th day of April, 1944, did represent to the said Dr. E. H. Teed that she was acquainted with the said Edward William Kelly, and did further falsely represent that she knew him, the said defendant Edward William Kelly, to be a Narcotics Inspector of the Treasury Department of the United States of America, and further falsely represented that the said defendant Edward William Kelly could be fixed, meaning that he could be bribed to forbear the performance of his duty, and that she had bribed him in Seattle in behalf of another doctor, in- [2] ducing said Seattle doctor to pay defendant Edward William Kelly a substantial sum of money. That the defendant Wilma Shirley Doores further falsely represented to Dr. E. H. Teed that if he would provide a substantial sum of money, to-wit, \$2500, for the purpose of paying the same to the said Edward William Kelly, she could prevail upon the said Edward William Kelly to forbear from arresting the said Dr. E. H. Teed. That the said Wilma Shirley Doores did accept from Dr. E. H. Teed the sum of \$2500 which he had paid to her on the condition that the said money was to be paid to the said Edward William Kelly in consideration of the said defendant Edward William Kelly's

refusing to arrest the said Dr. E. H. Teed for furnishing her, the said Wilma Shirley Doores, with narcotics.

5. That the said Wilma Shirley Doores did thereafter accept and receive various sums of money from the said Dr. E. H. Teed on the pretense that she would pay the said money to the said Edward William Kelly and other narcotics agents for their forbearance in arresting the said Dr. E. H. Teed for violation of the Federal narcotics laws.

6. That on April 22, 1944, the said Wilma Shirley Doores, did induce Dr. E. H. Teed to pay to her at Spokane, Washington the sum of \$3000 upon the representation by her that she would prevail upon Edward William Kelly and Mr. Bangs, Chief of the Narcotics Division of the Treasury Department of the United States to forbear from arresting the said E. H. Teed upon a charge of unlawfully furnishing her, the said Wilma Shirley Doores, with narcotics.

7. That on April 24, 1944, the said Wilma Shirley Doores did prevail upon Dr. E. H. Teed to pay to her at Spokane, Washington, the sum of \$3500 and to give to her 1000 quarter grain tablets of morphine sulphate, a narcotic drug, upon the representation of the said Wilma Shirley Doores that she would prevail upon the said Edward William Kelly and one Mr. Bangs, Chief of the Narcotics Division of the Treasury Department of the United States, to forbear from arresting the said Dr. E. H. Teed upon a charge of unlawfully

furnishing her, the said Wilma Shirley Doores, with narcotics.

8. That on or about April 14, 1944, the said Wilma Shirley Doores did telegraph the said Dr. E. H. Teed from Spokane, Washington, to Hailey, Idaho, requesting that the said Dr. E. H. Teed immediately contact her by long distance telephone at Spokane, Washington. That he did so contact her by long distance telephone and she told him that if he did not come to Spokane [3] and "fix things up" he would be arrested.

9. That on or about May 16, 1944, the said defendant Edward William Kelly, while he was impersonating a Federal Narcotics Inspector of the Treasury Department of the United States, did receive from the said Dr. E. H. Teed the sum of \$145.

10. That on or about the 10th day of April, 1944, the said defendant Wilma Shirley Doores paid to the said defendant Edward William Kelly the sum of \$200, being a portion of the \$2500 which she had received from the said Dr. E. H. Teed of Coeur d'Alene, Idaho, for the purpose of bribing the said Edward William Kelly, a purported narcotics inspector, from the performance of his purported duty to arrest the said Dr. E. H. Teed for unlawfully disposing of narcotics to the defendant Wilma Shirley Doores.

11. That between April 9, 1944 and May 25, 1944 the defendant Wilma Shirley Doores gave to the defendant George Clayton approximately \$3000 in cash which he, the said George Clayton, knew had

been unlawfully received from the said Dr. E. H. Teed of Coeur d'Alene, by the defendant Wilma Shirley Doores on the pretense that she, the said Wilma Shirley Doores, could prevent a purported narcotics inspector, impersonated by the said Edward William Kelly, from arresting the said Dr. E. H. Teed for unlawfully disposing of narcotics;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States.

COUNT TWO

That the said defendant Edward William Kelly, in the County of Spokane, State of Washington, in the Northern Division of the Eastern District of Washington and within the jurisdiction of the above-entitled Court, then and there being, did willfully, unlawfully and feloniously, with intent to defraud one Dr. E. H. Teed of Coeur d'Alene, Idaho, on or about April 10, 1944, falsely assume and pretend to be an officer and inspector of the Narcotics Division of the Treasury Department of the United States and did take upon himself to act as such Narcotics Inspector, and in such pretended character did demand and obtain from the said Dr. E. H. Teed the sum of \$145 as a purported bribe for failing and refusing to arrest the said Dr. E. H. Teed for unlawfully disposing of narcotic drugs, which said act was a part of the scheme to defraud Dr. E. H. Teed as alleged and described in Count One of this indictment:

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States. [4]

COUNT THREE

That the said defendant Wilma Shirley Doores, on or about April 10, 1944, in the County of Spokane, State of Washington, in the Northern Division of the Eastern District of Washington, and within the jurisdiction of the above-entitled Court, then and there being, did willfully, unlawfully and feloniously aid, abet and assist the defendant Edward William Kelly to assume and pretend to be a narcotics inspector of the Treasury Department of the United States, and acting under the authority of the United States, for the purpose of and with intent to defraud one Dr. E. H. Teed into paying money and other valuable things by frightening the said Dr. E. H. Tweed into paying money on consideration of the said defendant Edward William Kelly forbearing to exercise his pretended authority as a narcotics inspector of the Treasury Department of the United States in pretending to refuse to arrest the said Dr. E. H. Teed upon a charge of unlawfully disposing of narcotics to the said Wilma Shirley Doores:

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States.

COUNT FOUR

That the said defendant Wilma Shirley Doores, on or about May 20, 1944, in the County of Spokane, State of Washington, in the Northern Division of the Eastern District of Washington and within the jurisdiction of the above-entitled Court, then and there being, did willfully, unlawfully and feloniously aid, abet, assist, counsel and procure the said defendant Edward William Kelly to falsely assume and pretend to be a narcotics inspector of the Treasury Department of the United States, and acting under the authority of the United States, and in such pretended character to demand and obtain from the said Dr. E. H. Teed money of the value of \$145;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States.

COUNT FIVE

That the said defendant Wilma Shirley Doores, on or about April 20, 1944, in the County of Spokane, State of Washington, in the Northern Division of the Eastern District of Washington, and within the jurisdiction of the above entitled Court, then and there being, with intent to extort money from the person of the said Dr. E. H. Teed, did willfully, unlawfully and feloniously transmit in interstate commerce, to-wit, by means of the interstate long distance telephone from the said defendant Wilma Shirley Doores, at Spokane, [5] Wash-

ington to Dr. E. H. Teed at Hailey, Idaho, a threat to accuse the said Dr. E. H. Teed of the 'crime of unlawfully selling and disposing of narcotics to her, the said defendant Wilma Shirley Doores unless he would pay to her money for delivery to a certain pretended narcotics agent, to-wit, the defendant Edward William Kelly;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States.

Dated this 11th day of August, 1944.

HOWARD C. CLEAVINGER

United States Attorney

HARVEY ERICKSON

Assistant United States

Attorney

A True Bill:

EDWARD C. CLEAVINGER

Foreman, Grand Jury

Presented to the Court by the Foreman of the Grand Jury, in open Court, in the presence of the Grand Jury and filed in the United States District Court for the Eastern District of Washington, Aug. 11, 1944.

A. A. LaFRAMBOISE,

Clerk

(Excerpt from Court Journal 16, page 534. Title of cause.)

PLEAS

WILMA SHIRLEY DOORES

Now on this 16th day of August, 1944, into court comes the defendant Wilma Shirley Doores with her attorney Harold Gleeson, waives formal arraignment under the Indictment heretofore filed against her, and being interrogated by the Court as to her plea thereto, defendant answers that she desires to enter a plea of Not Guilty, which plea is received by the Court and ordered entered on the records of the court with the understanding that it may be withdrawn for the purpose of filing a demurrer and motions on or before August 23, 1944. If motions are filed, arguments will be heard August 30, 1944, at 10:00 A. M.

GEORGE CLAYTON

Now on this 16th day of August, 1944, into court comes the defendant George Clayton with his attorney Del Cary Smith, waives formal arraignment under the Indictment heretofore filed against him, and being interrogated by the Court as to his plea thereto, defendant answers that he desires to enter a plea of Not Guilty, which plea is received by the Court and entered on the records of the [6] court with the understanding that it may be withdrawn for the purpose of filing a demurrer and motions on or before August 23, 1944. If motions are filed,

arguments will be heard August 30, 1944, as 10:00 A. M.

(Excerpt from Court Journal 16, Page 650. Title of cause.)

Now on this 4th day of December, 1944, into court comes the defendant Wilma Shirley Doores, with her attorney Harold Gleeson and moves the court for leave to withdraw her plea of Not Guilty heretofore entered to the Indictment. Motion Granted. Upon being interrogated by the Court as to her plea at this time, defendant answers that she desires to enter a plea of Guilty as to Counts 1, 3, 4 and 5 of the Indictment, which plea is received by the Court and ordered entered on the records of the court.

Continued for imposition of sentence to Friday, December 8, 1944, at 3:40 P. M.

[Title of Court and Cause.]

VERDICT

We, the jury in the above entitled cause, find the defendant George Clayton, Guilty as charged in Count I of the Indictment.

REX J. RAYMOND

Foreman.

[Endorsed]: Filed December 12, 1944.

[Title of Court and Cause.]

JUDGMENT AND COMMITMENT

Criminal Indictment in five counts for violation of U.S.C., Title 18 Secs. 76 and 88 (Count 1 only applies to this defendant).

On this 11th day of December, 1944, came the United States Attorney, and the defendant George Clayton appearing in proper person, and by his attorney Del Cary Smith and,

The defendant having been convicted on the verdict of the jury of the offense charged in Count 1 of the Indictment in the above entitled cause, to wit: conspiracy to extort, and the defendant having been now asked whether he has anything to say why judgment should not be pronounced against him, and no sufficient cause to the contrary being shown or appearing to the Court, It [7] Is By the Court Adjudged that defendant is guilty as charged in Count 1 of the Indictment, and it is further

Ordered and Adjudged that the defendant, having been found guilty of said offenses, is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for the period of

Two (2) Years and pay a fine of \$5000.00 and that said defendant be further imprisoned until payment of said fine, or until said defendant is otherwise discharged as provided by law.

It Is Further Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer

and that the same shall serve as the commitment herein.

L. B. SCHWELLENBACH

United States District Judge

[Endorsed]: Filed December 11, 1944.

[Title of Court and Cause.]

MOTION IN ARREST OF JUDGMENT

Comes now the defendant and moves the Court to arrest judgment on the verdict of the jury in the above-entitled case for the following causes:

1. No legal authority in the grand jury to inquire into the offense charged, by reason of its not being within the jurisdiction of the Court.

2. That the facts as stated in the indictment do not constitute a crime.

Defendant also moves for arrest of judgment upon the ground that the indictment in the above case charged that the defendants conspired, combined, and agreed together and each with the other "to commit crimes and offenses against the United States as follows, to-wit: to violate Title 18 Section 76, U.S.C.A., in the following manner", etc., and there was no creditable evidence that the defendant was guilty of said offense or of any offense.

Defendant also moves for an arrest of judgment on the ground that there was no proof of any overt act in furtherance of said conspiracy, particularly overt act No. 11 charged against said defendant.

This motion is based upon the records and files of the above-entitled [8] case, upon the minutes of the Court, and upon the proceedings and testimony in the above-entitled case.

ROBERTSON & SMITH
HAROLD M. GLEESON
Attorneys for Defendant

Copy received this 13th day of December, 1944.

EDWARD M. CONNELLY
U. S. Atty.

[Endorsed]: Filed December 13, 1944.

[Title of Court and Cause.]

MOTION FOR NEW TRIAL

Comes now the defendant and moves the Court to vacate and set aside the verdict in the above-entitled case and to grant the defendant a new trial upon the following grounds:

I.

Irregularity in the proceedings of the jury, by which defendant was prevented from having a fair trial.

II.

Misconduct of the jury.

III.

Newly discovered evidence material for the defendant which he could not have discovered with reasonable diligence and produced at the trial.

IV.

Accident or surprise.

V.

Errors of law occurring at the trial and excepted to by the defendant.

VI.

Insufficiency of the evidence to justify the verdict and that it is contrary to the law and evidence.

VII.

Misconduct of the District Attorney in argument to the jury.

ERRORS IN LAW OCCURRING AT
THE TRIAL

The claimed errors in law were as follows:

1. In permitting the United States Marshal to testify to certain acts and things done after the alleged conspiracy had terminated, particularly to the recovery of certain monies from the safety deposit box rented under an [9] assumed name by the defendant Shirley Doores.

2. In failing to grant defendant's motion for dismissal made at the end of the Government's case on account of the insufficiency of the evidence, the contradictory nature thereof, and the fact that there was no credible proof of the existence of a conspiracy.

3. In failing to grant defendant's motion for a direct verdict or dismissal at the end of all of the testimony in the case on the ground of the insuffi-

ciency of the evidence, the contradictory nature of the testimony of the Government, and upon the further fact that all circumstances relied upon by the Government were such circumstances as to be susceptible of two constructions and the Court was required as a matter of law to find that such circumstances indicated innocence rather than guilt on the part of the defendant.

4. In sustaining the objection of plaintiff's counsel to the cross-examination of the witness Kelly upon what disposition he had made of the one hundred quarter grains of morphine which he had received from Government witness Dr. E. H. Teed.

5. Misconduct of the District Attorney in argument, duly objected and excepted to at the time, as will be more fully shown by transcript of the testimony and argument hereafter to be filed.

6. In further instructing the jury upon the subjects of conspiracy and circumstantial evidence at the request of plaintiff's attorney and over the objection of defendant after the jury had been fully and completely instructed upon said subjects, thereby serving to emphasize in the jury's mind said instructions and, further, to weaken the instructions as given by the Court, to the prejudice of the defendant.

This motion is based upon the records and files of the above-entitled case, upon the minutes of the Court, upon the proceedings and testimony at the trial, and upon affidavits to be filed herein.

ROBERTSON & SMITH

HAROLD M. GLEESON

Attorneys for Defendant

Copy received this 13th day of December, 1944.

EDWARD M. CONNELLY,

U. S. Atty.

[Endorsed]: Filed December 13, 1944. [10]

In the District Court of the United States for the
Eastern District of Washington, Northern
Division

No. C-7702

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILMA SHIRLEY DOORES,

EDWARD WILLIAM KELLY, and

GEORGE CLAYTON,

Defendants.

OPINION OF THE COURT

Schwellenbach, District Judge.

The defendant Clayton was charged jointly with the defendants Shirley Doores and Edward Kelly with conspiracy to extort by the technique of the impersonation of a Federal Narcotics Officer. Defendants Doores and Kelly pleaded guilty prior to trial but were not sentenced at the time of trial. Kelly testified at length for the Government. Doores was called by the Government and was asked only one question. The trial resulted in a verdict

of guilty as to Clayton. He moved for a new trial on several grounds, the disposition of only one of which remains to be made. He contends that the Court erred prejudicially by permitting the United States Attorney to comment on the defendant's failure to call Shirley Doores to testify generally concerning the conspiracy charge. [11]

The testimony showed that Clayton and Shirley Doores had lived together for about five years and were living together at the time of the trial. Miss Doores was on bail during the trial. Their relationship was politely referred to during the trial as that of common law husband and wife although the State of Washington recognizes no such relationship. Shirley Doores was admittedly a drug addict. The Government's contention was that early in 1944 she had acquired a large quantity of drugs from a Dr. Teed, of Coeur d'Alene, Idaho, and that after Teed refused further drugs she and Kelly and Clayton conspired together to have Kelly impersonate a Federal officer and threaten Teed and that, as a result of such threats, Shirley Doores extorted some fourteen thousand dollars (\$14,000) out of Teed, part of which was turned over to Clayton. Testimony in support of this contention was submitted by the Government through Kelly and Shirley Doores' brother "Bunny." Clayton took the stand in his own defense and categorically denied any knowledge of the conspiracy. In final argument, the United States Attorney commented on defendant's failure to call Shirley Doores and stated that Shirley, who had pleaded guilty, "would

not lie for anyone.” Timely objections were made. I did not instruct the jury to disregard the remark.

There was nothing inflammatory about the remark or the manner of its utterance which would bring it within the rule recently enunciated in *Viereck v. United States*, 318 U. S. 236. According to the standard laid down in *Tatum v. United States*, 9th Cir., decided December 11, 1944, defendant cannot complain of the language used. The question involved is whether the argument injected an unfair inference in view of the situation existing concerning Shirley Doores at the time. [12]

The rule is that if the party has it peculiarly within his power to produce witnesses whose testimony would elucidate the transaction, the fact that he does not do it creates the presumption that the testimony, if produced, would be unfavorable. *Graves v. United States*, 150 U. S. 118, 121; *United States v. Cotter*, 2d Cir., 60 F. (2d) 689, 691, certiorari denied, 287 U. S. 666; *Milton v. United States*, 110 F. (2d) 556, 559. There can be no question that Shirley Doores was not only accessible to the defendant as a witness, but was peculiarly available to him as a witness against the Government. She was living with him. She had lived with him for five years. Her counsel, who represented her in these proceedings, was co-counsel for the defendant Clayton. At the time that Doores was called as a witness for the Government, this counsel stated, in the absence of the jury, that it had not yet been determined whether Shirley Doores would be called by the defendant. Under those

circumstances, the Government would not have dared to have called her as a witness as to the issues generally. This was clearly a case of peculiar availability so far as the defendant was concerned.

The difficulty in this case arises out of the decision of the 9th Circuit Court of Appeals in *Moyer v. United States*, 78 F. (2d) 624, 630. In that case, the Court instructed the jury concerning the presumption arising out of the failure to call available witnesses. The witness referred to there was not peculiarly available to the defendant. In fact, the defendant testified he was only slightly acquainted with him. However, the case was reversed on the basis of the instruction. The court, through Judge Norcross, used the following language: "The rule we think should not be applied in the case of one who [13] is a codefendant, and has entered a plea of guilty, and as to whom sentence has not been imposed."

Had the Circuit Court of Appeals stopped there, I would feel compelled to grant a new trial here. I assume that my failure to instruct the jury to disregard the argument concerning the inference is tantamount to an affirmative instruction explaining the inference. *Graves v. United States*, *supra*. However, the Circuit Court of Appeals went on to say: "Of one in that position the Supreme Court in *Alford v. United States*, *supra*, (282 U. S. 667) said: 'Nor is it material, as the Court of Appeals said, whether the witness was in custody because of his participation in the transactions for which petitioner was indicted. Even if the witness were

charged with some other offense by the prosecuting authorities, petitioner was entitled to show by cross examination that his testimony was affected by fear or favor growing out of his detention. . . . ' ' ' Thus, the Court, in the Moyer case, demonstrated that its reason for excluding the rule in the case of unsentenced codefendants was its belief that the testimony of such unsentenced codefendants might be affected by fear or favor growing out of the detention. No such reason can exist in this Court. On assuming my position of judge of this Court a little over four years ago, I announced a policy which invariably has been followed—that is, that the United States attorney has nothing to do with the sentences imposed by the Court. I do not seek the advice of the United States attorney as to the sentence. I do not permit him to give advice either publicly or privately. Defendant Clayton was represented by two very capable and experience lawyers, each of whom has represented defendants in this [14] Court many times in the last four years. They were entirely familiar with the rule. They and the defendant and Shirley Doores knew that she had nothing to fear and she could expect no favors as a result of her testimony had she taken the stand. Since the reason which actuated the Circuit Court of Appeals to lay down the rule is non-existent here, I do not feel constrained to follow it.

Furthermore, in an additional paragraph in the Moyer decision, the Court specifically points out

that the witness to whom reference was made was equally accessible to both the prosecution and the defendant and that, therefore, no unfavorable inference could be drawn by reason of the failure to call such witness. That situation does not exist in this case.

The motion for new trial will be Denied.

L. B. SCHWELLENBACH

United States District Judge

January 13, 1945.

[Endorsed]: Filed—January 13, 1945. [15]

[Title of Court and Cause.]

ORDER DENYING MOTION FOR NEW
TRIAL

The above entitled matter having come on regularly for hearing before the Honorable Lewis B. Schwellenbach, Judge of the above-entitled Court, upon defendant George Clayton's Motion for New Trial and Motion in Arrest of Judgment on December 22, 1944, and argument upon said motions thereafter having been continued by the Court to December 27, 1944 and again continued by the Court to December 29, 1944, and the plaintiff being represented by Edward M. Connelly, United States Attorney for the Eastern District of Washington, and the defendant George Clayton having been represented by Del Cary Smith, Jr., Esquire, and Harold M. Gleeson, Esquire, and the Court having

heard the arguemnt of counsel and being fully advised in the premises, and having fully considered said motions and having heretofore on January 13, 1945 filed a Memorandum Decision upon said motions,

Now Therefore It Is Hereby Ordered that the defendant George Clayton's Motion for New Trial be, and the same is hereby denied. The defendant excepts to such ruling of the Court, and exception is allowed.

It Is Further Ordered that the defendant George Clayton's Motion in Arrest of Judgment be, and the same is hereby denied, to which ruling of the Court the defendant George Clayton excepts, and exception is allowed.

Done in open Court this 15 day of January, 1945.

L. B. SCHWELLENBACH

Judge of the United States District Court for the
Eastern District of Washington

Presented by:

HARVEY ERICKSON

Asst. United States Attorney

Approved:

DEL CARY SMITH, Jr.

HAROLD M. GLEESON

[Endorsed]: Filed—January 15, 1945.

[Title of Court and Cause.]

NOTICE OF APPEAL

GEORGE CLAYTON

Name and Address of Appellant: George Clayton,
7225 East Carlisle, Spokane, Washington

Name and Address of Appellant's Attorneys:
Robertson & Smith and Harold M. Gleeson [16]
Spokane & Eastern Building, Spokane, Washington.

Offense:

Violation of Section 76, Title 18 United States Code; conspiracy to defraud by having a co-conspirator falsely assume to act as an officer of the Narcotics Division of the Treasury Department of the United States, to obtain money and narcotic drugs.

Date of Judgment:

December 11th, 1944.

Brief Description of Judgment or Sentence:

2 Years Imprisonment and \$5,000.00 fine.

I, George Clayton, the above named appellant, hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment above mentioned on the grounds set forth below.

GEORGE CLAYTON

Appellant

Dated January 17, 1945.

Received Copy of the foregoing Notice of Appeal, with Grounds of Appeal annexed this 17th day of January, 1945.

EDWARD M. CONNELLY

By H. ERICKSON

United States District Attorney and Attorney for
Plaintiff

[Endorsed]: Filed—January 17, 1945.

GROUND OF APPEAL:

1. The District Court erred in overruling appellant's motion, made at the end of the Government's case, to dismiss the indictment on account of the insufficiency of evidence, the contradictory nature thereof, and the lack of creditable proof of the existence of a conspiracy.

2. The District Court erred in failing to grant appellant's motion made at the conclusion to all of the testimony, for a directed verdict of acquittal, or a dismissal of the indictment on the grounds of the insufficiency of the evidence, the contradictory nature of the testimony of the Government, and that all the circumstances relied upon by the Government were susceptible of two constructions, and the District Court was required as a matter of law to find that such circumstances indicated innocence rather than a guilt on [17] the part of the appellant.

3. Misconduct of the District Attorney in the

argument, objected and excepted to at the time, which said argument was as follows:

“Mr. Connelly (District Attorney): It is going to be argued by the defense that this old mother loaned her son \$2,000. * * * * * It is not a story which can be considered reasonable by any test of reason, in weighing the testimony, because she does not even offer you an explanation as to where the money came from, in what form it was, whether or not it was ever in a bank, or whether or not her son was son enough to give her a note to evidence the indebtedness, and you are sitting here as triers of the facts in an important law suit. I can only say to you do not be led astray by sentimental considerations. You are dealing with people of the under-world. Don't forget that for a moment. If a jury's intelligence can be stultified and insulted by a defense of that character, I say the bars are down——

Mr. Smith: Just a moment. We will have to raise an objection to an argument of that kind. I think it is highly prejudicial.

The Court: I will sustain the objection, and instruct the jury to disregard the last statement.
* * * *

Mr. Connelly: * * * * Kelly was man enough to plead guilty and testify, and there was nothing I could offer him. The penalties is this court are fixed by the Court alone. District Attorneys are not even allowed to make recommendations as to penalties.

Mr. Smith: This argument is outside the case, and I object to it.

The Court: I think it is perfectly proper argument, and I will not sustain the objection. Under the instructions you have requested, I think it is proper.

Mr. Connelly: * * * * Shirley Doores, a narcotic addict, broken in health, taking bismuth from Dr. Teed—and he told you what for—has reached the end of her lane. Apprehended in this case, with whatever elements of courage she has left in her make-up, she has admitted she did it, but she will not lie for anyone, and she hasn't lied for anyone, and she has not taken this witness stand and supported her common-law husband in one single iota of his claim here.

Mr. Smith: I object to the statement that Shirley Doores would not lie for anybody. I do not think it is a fair inference to draw from the [18] testimony.

The Court: The jury is the exclusive judge of all the testimony, and will pass upon the argument, and give it such weight as it sees fit.

Mr. Connelly: * * * * We do not prove conspiracy ordinarily by direct evidence alone, but also by circumstantial evidence, and you will weigh all those circumstances. I submit the truthfulness of Kelly's statement is apparent, that this man Clayton had the money, and he quit his job and went looking for a place to buy. That deed was never recorded, and he did get that \$1250. You have heard Clayton's explanation of that, that he gave

the deed to her. Shirley did not testify to that, and Shirley will not lie for anybody.

I submit the verdict should be guilty.

Mr. Smith: May I except to the remarks of counsel and ask that the jury be instructed to disregard it, as not based on any evidence in this case.

The Court: The jury is the exclusive judge of all of the evidence in the case, and is entitled to evaluate any argument made upon the basis of the evidence submitted."

4. Misconduct of the District Attorney in commenting on the failure of the appellant to call a co-defendant, Wilma Shirley Doores, as a witness, she the said co-defendant not being on trial, which comment was as follows:

Mr. Connelly: " * * * What can Kelly hope to get out of it? Nothing. He has pled guilty here.

Shirley Doores has pled guilty, and in that connection, talking about witnesses who did not appear and those who did, has it occurred to you that the matter of the deed, paying the money, the exchange of deeds, the absence of Clayton from the meeting when the conspiracy was planned, if this were only Shirley Doores' deal with Kelly and Buny, and if that is what he is clinging to on this indictment for conspiracy, if the contentions of this man Clayton and the arguments of his counsel are true, the answer to all of it would be a simple statement of fact upon the witness stand from this girl who has pled guilty already.

Shirley Doores, a narcotic addict, broken in

health, taking bismuth from Dr. Teed—and he told you what for—has reached the end of her lane. Apprehended in this case, with whatever elements of courage she has left in her make-up, she has admitted she did it, but she will not lie for anyone, and she hasn't lied for anyone, and she has not taken this witness stand and [19] supported her common-law husband in one single iota of his claim here.

Mr. Smith: I object to the statement that Shirley Doores would not lie for anybody. I do not think it is a fair inference to draw from the testimony.

The Court: The jury is the exclusive judge of all the testimony, and will pass upon the argument, and give it such weight as it sees fit.

Mr. Connelly: * * * * We do not prove conspiracy ordinarily by direct evidence alone, but also by circumstantial evidence, and you will weigh all those circumstances. I submit the truthfulness of Kelly's statement is apparent, that this man Clayton had the money, and he quit his job and went looking for a place to buy. That deed was never recorded, and he did get that \$1250. You have heard Clayton's explanation of that, that he gave the deed to her. Shirley did not testify to that, and Shirley will not lie for anybody.

I submit the verdict should be guilty.

Mr. Smith: May I except to the remarks of counsel and ask that the jury be instructed to disregard it, as not based on any evidence in this case.

The Court: The jury is the exclusive judge of

all of the evidence in the case, and is entitled to evaluate any argument made upon the basis of the evidence submitted."

5. The District Court erred in further instructing the jury upon the subjects of conspiracy and circumstantial evidence at the request of plaintiff's attorney and over the objection of defendant after the jury had been fully and completely instructed upon said subjects, thereby serving to emphasize in the jury's mind said instructions and, further, to weaken the instructions as given by the Court, to the prejudice of the defendant.

6. That the verdict is contrary to the evidence.

7. That the verdict is contrary to law.

8. That there was no substantial evidence upon which the verdict could have been based.

The foregoing succinct statement of the Grounds of Appeal will be amplified and added to in the Assignment of Errors.

ROBERTSON & SMITH

By DEL CARY SMITH, Jr.

HAROLD M. GLEESON

Attorneys for George Clayton

[20]

[Title of Court and Cause.]

ORDER FIXING BOND

This matter coming regularly on for hearing this 15th day of January, 1945, upon the application of the defendant George Clayton to fix bond upon appeal to the Circuit Court of Appeals for the Ninth Circuit, and it appearing to the Court that

defendant has heretofore filed his notice of appeal to said Circuit Court of Appeals,

Now, Therefore, It Is Hereby Ordered that during the pendency of said appeal defendant may be admitted to bond in the sum of \$5000.00.

Done in Open Court this 17th day of January, 1945.

L. B. SCHWELLENBACH

United States District Judge

Presented by:

DEL CARY SMITH, Jr.

Of Counsel for Defendant.

Copy received Jan. 15, 1945.

HARVEY ERICKSON

Asst. U. S. Atty.

[Endorsed]: Filed—January 17, 1945.

[Title of Court and Cause.]

BAIL BOND PENDING DETERMINATION
OF APPEAL

Know All Men by These Presents: That we George Clayton, Principal, and the General Casualty Co. of America, a Corporation, as surety, are held and firmly bound unto the United States of America, in the full and just sum of Five Thousand (\$5000.00) Dollars, to be paid to the United States of America to which payment well and truly to be paid, we bind ourselves and heirs, executors and administrators jointly and severally by these presents.

Sealed with our seals and dated this 17th day

of January, 1945, in the year of our Lord One Thousand Nine Hundred and Forty Five.

Whereas, Lately at the December Term of the District Court of the United States, for the Eastern District of Washington, Northern Division, in a suit pending in said court, between the United States of America, plaintiff, and George Clayton defendant, a judgment and sentence was rendered against the said defendant George Clayton and the said George Clayton has appealed to the United States Circuit Court of Appeals for the Ninth Circuit to reverse the judgment [21] and sentence in the aforesaid suit.

Now, the condition of the above obligation is such that if the said George Clayton shall appear either in person or by attorney in the United States Circuit Court of appeals for the Ninth District on such day or days as may be appointed for the hearing of said cause, in said Court, and shall prosecute his said appeal, and abide by and obey all orders made by the United States Circuit Court of Appeals for the Ninth Circuit in said cause, and shall surrender himself in the execution of the judgment and sentence appealed from, as said Court may direct, if the judgment and sentence against him shall be affirmed, or the appeal is dismissed; and if he shall appear for trial in the District Court of the United States, for the Eastern District of Washington, Northern Division, such day or days as may be appointed for retrial by said District Court and abide by and obey all orders made by said Court, provided the judgment and sentence

against him shall be reversed by the United States Circuit Court of Appeals for the Ninth Circuit, then the above obligation to be void; otherwise to remain in full force, virtue and effect.

GEORGE CLAYTON,

Principal

[Seal]

GENERAL CASUALTY COM-
PANY OF AMERICA

By S. L. CATELLI,

Attorney-in-Fact

Bond approved as to Form:

EDWARD M. CONNELLY

United States District Attor-
ney

Bond Approved this 17 day of January, 1945.

L. B. SCHWELLENBACH,
Judge.

[Endorsed]: Filed—January 17, 1945.

(Excerpt From Court Minutes, Journal 16, page 699)

[Title of Cause.]

Now on this 19th day of January, 1945, pursuant to Rule 7 of the Rules of Practice and Procedure after plea of Guilty, Verdict, or Finding of Guilt in Criminal Cases brought in the District Courts of the United States, the attorneys for defendant and the United States Attorney were directed to appear before the Court with respect to the preparation of the record on appeal in the above cause. [22]

The attorneys for defendant were directed to immediately order the transcript of the evidence, and to again appear before the Court on February 9, 1945.

[Title of Court and Cause.]

ORDER OF EXTENSION OF TIME FOR THE
SETTLEMENT AND FILING OF BILL OF
EXCEPTIONS AND ASSIGNMENTS OF
ERROR AND PRAECIPE

Upon the application of the defendant and appellant George Clayton and upon a showing of good cause therefore, it is

Ordered that the time of the defendant and appellant George Clayton within which to procure to be settled and to file his Bill of Exceptions herein, and in which to file his assignments of errors and praecipe herein, in connection with his aforesaid appeal be, and hereby is, extended to and including the 16th day of April, 1945.

Dated this 9th day of February, 1945.

L. B. SCHWELLENBACH

United States District Judge

Approved February 9th, 1945.

EDWARD M. CONNELLY

United States Attorney and Attorney for plaintiff

ROBERTSON & SMITH

By DEL CARY SMITH, Jr.

HAROLD M. GLEESON

Attorneys for Defendant George Clayton.

[Endorsed]: Filed—February 9, 1945. [23]

PLAINTIFF'S EXHIBIT No. 1

Adm

Residence Phone 870

Office Phone 87

E H. TEED, M.D.
Coeur d'Alene, Idaho

For MRS. VELMA ROCK

Date 1-1-44

Address Pacific Hotel, Spokane, Wash.

RX MORPH SULPH H.T.Gr. SS # XL

3363

Sig: One or two tablets P.R.N. for pain

1-1-44

Spine injury

CANCELLED*

93405

E. H. TEED, M.D.

Reg. No. 1072

Rex Drug Store

Reg. No. 2444

112 North 4th

Phone 6 Coeur d'Alene, Idaho

(Endorsement on back of Prescription)

W. G. G.

P. M. LENTS

5/27/44

REX DRUG STORE

112 N. 4th St. Phone 6

Coeur d'Alene, Idaho

[Printer's Note:] * In red.

PLAINTIFF'S EXHIBIT No. 2

Adm

Residence Phone 870

Office Phone 87

E. H. TEED, M.D.
Coeur d'Alene, Idaho

For MRS. VELMA ROCK Date 1-27-47
Address Dessert Hotel, Coeur d'Alene, Ida.

RX Delaudig Gr 1/20 Tab # XX

1-27-44

Sig: One or two tablets for Pain 3353

Injured Spine. CANCELLED* 93784

E. H. TEED, M.D.
Reg. No. 1072

Reg. Drug Store
Reg. No. 2444
112 North 4th
Phone 6 Coeur d'Alene, Idaho

(Endorsement on back of Prescription)

W. G. G.
P. M. LENTS
5/27/44

REX DRUG STORE
112 N. 4th St. Phone 6
Coeur d'Alene, Idaho

[Printer's Note:] * In red.

PLAINTIFF'S EXHIBIT No. 3

Adm

Residence Phone 870

Office Phone 87

E. H. TEED, M.D.
Coeur d'Alene, Idaho

For Mr. Mike Sanders
Address Granite, Idaho

Date 2-3-44

94072

CANCELLED*

RX MORPH. SULP H. T. Gr SS # L

8403

Sig: One or two tablets P.R.N. for pain

2-3-44

Syphilitic ulcers

E. H. TEED, M.D.
Reg. No. 1072

Rex Drug Store
Reg. No. 2444
112 North 4th
Phone 6 Coeur d'Alene, Idaho

(Endorsement on Back of Prescription)

W. G. G.
P. M. LENTS
5/27/44

Presented by Dr. Teed

REX DRUG STORE
112 N. 4th St. Phone 6
Coeur d'Alene, Idaho

[Printer's Note:] * In red.

PLAINTIFF'S EXHIBIT No. 4

Adm

Residence Phone 870

Office Phone 87

E. H. TEED, M.D.
Coeur d'Alene, Idaho

For Mrs. VELMA ROCK

Date 12-30-43

Address Pacific Hotel, Spokane, Wash.

127088 N

RX MORPH SULPH. H.T. Gr SS Tab # XX L E X

Sig: One or two tablets P.R.N. for pain

Injured Spine

E. H. TEED, M.D.
Reg. No. 1072

Rex Drug Store

Reg. No. 2444

112 North 4th

Phone 6 Coeur d'Alene, Idaho

(Endorsement on back of Prescription)

H. H. HART
5/27/44 W.G.G.

HART'S DRUG STORE

H. H. Hart
Coeur d'Alene, Idaho

PLANTIFF'S EXHIBIT No. 5

Adm

Residence Phone 870

Office Phone 87

E. H. TEED, M.D.
Coeur d'Alene, Idaho

Mr. Mike Sanders

Date 1-24-44

Address Granite, Ida.

127938 N
B A E

RX MORPH SULPH H.T. Gr $\frac{1}{4}$ tab # XXC

Sig: Tab # IV f. i. d for pain

Syphilitic Ulcers

E. H. TEED, M.D.
Reg. No. 1072

Take This to
Hart's Drug Store
Prescription Druggists
H. H. Hart Coeur d'Alene, Idaho

(Endorsement on back of Prescription)

H. H. HART
5/27/44

W G G

HART'S DRUG STORE
H. H. Hart
Coeur d'Alene, Idaho

PLAINTIFF'S EXHIBIT No. 6

Adm

Residence Phone 870

Office Phone 87

E. H. TEED, M.D.
Coeur d'Alene, Idaho

For Mrs. Velma Rock

Date 2-9-44

Address Pacific Hotel, Spokane, Wash.

94187

RX MORPH SULPH H. T. Gr SS # XL

2-9-44

Sig: One or two tablets P.R.N. for pain

Injury to Spine CANCELLED*

E. H. TEED, M.D.

Reg. No. 1072

Rex Drug Store

Reg. No. 2444

112 North 4th

Phone 6 Coeur d'Alene, Idaho

(Endorsement on back of Prescription)

W. G. G.

P. M. LENTS

5/27/44

REX DRUG STORE

112 N. 4th St. Phone 6

Coeur d'Alene, Idaho

[Printer's Note:] * In red.

PLAINTIFF'S EXHIBIT No. 7

Adm

Residence Phone 870

Office Phone 87

E. H. TEED, M.D.
Coeur d'Alene, Idaho

For Mr. Mike Sanders

Date 2-17-44

Address Granite, Idaho

128692 N

BEX

RX MORPH SULPH H. T. Gr SS tab # L

Sig: One or two tablets P.R.N. for pain

Syphlitic Ulcers

E. H. TEED, M.D.
Reg. No. 1072

Rex Drug Store

Reg. No. 2444

112 North 4th

Phone 6 Coeur d'Alene, Idaho

(Endorsement on back of Prescription)

E. H. TEED, M.D.

H. H. HART

5/27/44

W. G. G.

HART'S DRUG STORE

H. H. HART

Coeur d'Alene, Idaho

PLAINTIFF'S EXHIBIT No. 8

Adm

Residence Phone 870

Office Phone 87

E. H. TEED, M.D.
Coeur d'Alene, Idaho

Mr. Mike Sanders

Date 2-23-44

Address Granite, Ida

128918 N

RX MORPH SULPH H. T. Gr SS # LX

BCE

Sig: Two tablets P.R.N. for pain

Syphilitic Ulcers

E. H. TEED, M.D.
Reg. No. 1072

Take this to

Hart's Drug Store

Prescription Druggists

H. H. Hart Coeur d'Alene, Idaho

(Endorsement on back of Prescription)

DR. E. H. TEED
H. H. HART
5/27/44

W. G. G.

HART'S DRUG STORE
H. H. HART
Coeur d'Alene, Idaho

PLAINTIFF'S EXHIBIT No. 9

Adm

Residence Phone 870

Office Phone 87

E. H. TEED, M.D.
Coeur d'Alene, Idaho

Mr. Mike Sanders
Address Granite, Idaho

Date 3-5-42

RX Delaudig Gr 1/16 # C

Sig: Two tablets P.R.N. for pain

129270 N

Syphilatic Ulcers

SXE

E. H. TEED, M.D.
Reg. No. 1072

Take this to
Hart's Drug Store
Prescription Druggists
H. H. Hart, Coeur d'Alene, Idaho

(Endorsement on back of Prescription)

DR. E. H. TEED
H. H. HART
5/27/44

W. G. G.

HART'S DRUG STORE
H. H. HART
Coeur d'Alene, Idaho

PLAINTIFF'S EXHIBIT No. 10

Adm

Residence Phone 870

Office Phone 87

E. H. TEED, M.D.
Coeur d'Alene, Idaho

For Mr. Mike Sanders
Address Granite, Idaho

Date 3/14/44

RX MORPH SULPH H. T. Gr $\frac{1}{4}$ # CC

129609 N
REX

Sig: One or two tablets P.R.N. for pain

E. H. TEED, M.D.
Reg. No. 1072

Rex Drug Store
Reg. No. 2444
112 North 4th
Phone 6 Coeur d'Alene, Idaho

(Endorsement on back of Prescription)

DR. E. H. TEED
H. H. HART
5/27/44

W. G. G.

HART'S DRUG STORE
H. H. HART
Coeur d'Alene, Idaho

PLAINTIFF'S EXHIBIT No. 11

Adm

Residence Phone 870

Office Phone 87

E. H. TEED, M.D.
Coeur d'Alene, Idaho

For Mr. Mike Sanders
Address Granite, Idaho

Date 3-22-44

129852

RX MORPH SULPH Gr $\frac{1}{4}$ tab # C

UEX

Sig: One or two tablets P.R.N. for pain

Syphilitic Ulcers

E. H. TEED, M.D.
Reg. No. 1072

Rex Drug Store

Reg. No. 2444

112 North 4th

Phone 6 Coeur d'Alene, Idaho

(Endorsement on back of Prescription)

DR. E. H. TEED

H. H. HART

5/27/44

W. G. G.

HART'S DRUG STORE

H. H. HART

Coeur d'Alene, Idaho

PLANTIFF'S EXHIBIT No. 12

Adm

Residence Phone 870

Office Phone 87

E. T. TEED, M.D.
Coeur d'Alene, Idaho

For Mr. Mike Sanders
Address Granite, Idaho

Date 3-18-44

RX MORPH SULPH H. T. Gr $\frac{1}{4}$ Gr tab # CC

129758 N

REX

Sig: One or two tablets P.R.N. for pain

Syphilitic Ulcers

E. H. TEED, M.D.
Reg. No. 1072

Rex Drug Store

Reg. No. 2444

112 North 4th

Phone 6 Coeur d'Alene, Idaho

(Endorsement on back of Prescription)

DR. E. H. TEED

H. H. HART

5/27/44

W. G. G.

HART'S DRUG STORE

H. H. HART

Coeur d'Alene, Idaho

PLAINTIFF'S EXHIBIT No. 13

Adm

Residence Phone 870

Office Phone 87

E. H. TEED, M.D.
Coeur d'Alene, Idaho

Mr. Mike Sanders
Address Granite, Idaho

Date 4/1/44

130210

RX Delaudig Gr 1/16 tab # C

CEX

Sig: One or two tab. P.R.N. for pain

Syphilitic Ulcers

E. H. TEED, M.D.
Reg. No. 1072

Take This To
Hart's Drug Store
Prescription Druggists
H. H. Hart, Coeur d'Alene, Idaho

(Endorsement on back of Prescription)

DR. TEED
H. H. HART
5/27/44

W. G. G.

HART'S DRUG STORE
H. H. HART
Coeur d'Alene, Idaho

PLAINTIFF'S EXHIBIT No. 14

Adm

Office Phone 87

Res. Phone 870

E.H. TEED, M.D.
Physician and Surgeon
Coeur d'Alene, Idaho

For Mike Sanders
Address Granite, Idaho

Date 4-3-44

RX Dilaudid Gr 1/20 tab # C

48488

HSX

Sig: One or two tablets P.R.N. for pain

Syphilitic Ulcers

E. H. TEED, M.D.
Reg. No. 1072

Take This to
Woodcock's
Drug Stores

(Endorsement on back of Prescription)

WOODCOCK'S DRUG

W. G. G.

5/27/44

M. W. MARKUM

PLAINTIFF'S EXHIBIT No. 15

Adm

E. H. TEED, M.D.

Office Phone 87

Coeur d'Alene, Idaho

Residence Phone 870

U. S. Reg. No. 1072

Wilson Building

Patient Mr. Mike Sanders
Granite, Idaho

Date 4-6-44

RX MORPH SULPH H.T. Gr SS tab # L 95363.

Sig: One tablet P.R.N. for pain

Syphilitic Ulcers

CANCELLED*

E. H. TEED, M.D.

Never offer this prescription to a friend for a seemingly similar ailment. It is your personal prescription, prepared for you specific illness at this particular time.

(Endorsements on back of prescription)

W.G.G.

P. M. LENTS

5/27/44

Presented by Dr. Teed

REX DRUG STORE

112 N. 4th St. Phone 6

Coeur d'Alene, Idaho

[Printer's Note]: * In red.

PLAINTIFF'S EXHIBIT No. 16

Adm

E. H. TEED, M.D.

Office Phone 87

Coeur d'Alene, Idaho

Residence Phone 870

U. S. Reg. No. 1072

Wilson Building

Patient Mr. Mike Sanders
Granite, Ida.

Date 4-8-44

RX MORPH SULPH H. T. Gr SS tab # L

94388

Sig: One tablet P.R.N. for pain

Syphilitic Ulcers

CANCELLED*

E. H. TEED, M.D.

Never offer this prescription to a friend for a seemingly similar ailment. It is your personal prescription, prepared for your specific illness at this particular time.

(Endorsement on back of Prescription)

W.G.G.

P. M. LENTS

5/27/44

Presented by Dr. Teed

REX DRUG STORE

112 N. 4th St. Phone 6

Coeur d'Alene, Idaho

[31]

[Printer's Note]: * In red.

PLAINTIFF'S EXHIBIT No. 18

Adm

WESTERN UNION

1 NL

Spokane Wn. 14th. 1944.

Dr. E. H. Teed Care Genl Dly office. Postoffice.

Hailey Idaho.

Phone me at this number Walnut 1635 at once soon as you
receive this message.

SHIRLEY CLAYTON.

8 # 9

5-27-44

47 — 1120 1A-27

Red for Mrs. Teed

S.D.S.

H.H.H.

5-27-44

(Notations on back of telegram)

SMOKY

7225 E. Carlyle

PLAINTIFF'S EXHIBIT No. 19

Adm

SHARE ACCOUNT BOOK

FIRST FEDERAL SAVINGS AND LOAN
ASSOCIATION

Home Office: North 120 Wall Street, Spokane, Washington

In Acct. With	Georgia Cook or Edna E. Cook	No. 19248
	815 - 7th St.	Type
	Coeur d'Alene, Idaho	

	Date	Repurchases	Dividends	Share Payments	Balance
1	11-22-40			600.00	600.00
2	11-22-40			200.00	200.00
3	11-27-40				800.00
4	11-27-40			200.00	1,000.00
5	12- 6-40			200.00	1,200.00
6	12-23-40	700.00			500.00
7	3- 8-41		1.04		501.04
8	3- 8-41			200.53	701.57
9	3-27-41			100.00	801.57
10	5-16-41			809.32	1,610.89
11	11-15-41		9.82		1,620.71
12	11-15-41	200.00			1,420.71
13	12-26-41			250.00	1,670.71
14	2-18-42	Div. Jan. 1, '42	17.75	1359.85	1,688.46
15	2-18-42			200.00	1,888.46
16	3- 3-42			911.54	2,800.00
17	3-24-42			200.00	3,000.00
18	6-30-42			500.00	3,500.00
19	7-31-42	Div. Jul 1, '42	31.61		3,531.61
20	7-31-42			800.00	4,331.61
21	8-29-42			200.00	4,531.61
22	9-14-31			468.39	5,000.00
23			57.05	3279.93	
24	4- 7-44		63.21		5,120.26

(Plaintiff's Exhibit No. 19—(Continued)

(Forward to Second Page)

	Date	Repurchases	Dividends	Share Payments	Balance
1	4- 7-44	Div. Jan. 1 '44	51.20		5,171.46
2	4- 7-44	3,500.00			1,671.46
3	4-24-44	1,671.46			0.00

[32]

PLAINTIFF'S EXHIBIT No. 20

Adm

Name Edna E. or Georgie Cook

No. 15590

Type No. Shares

		Received Amount in Repurchases			
Date	Repurchases	Dividends	Share Credits	Balance	
1	1-22-38		1,600.00	1,600.00	
2	Div. Jul. 1 '38	20.00		1,620.00	
3	Div. Jan 1 '39	24.30		1,644.30	
4	Div. Jul. 1 '39	24.66		1,668.96	
5	9- 1-39	1668.96	CK	0.00	

The First Federal Savings & Loan Association
Spokane, Washington

PLAINTIFF'S EXHIBIT No. 21

Adm

Name Georgia or Edna E. Cook No. 19248
815 7th Ave., Coeur d'Alene, Idaho

Type No. Shares

	Date	Repurchases	Dividends	Received Amount in Repurchases Column		Balance
				Share	Credits	
1	11-22-40		CK	600.00		600.00
2	11-22-40			200.00		200.00
3	11-22-40					800.00
4	11-27-40			200.00		1,000.00
5	12- 6-40			200.00		1,200.00
6	12-23-40	700.00	Edna E. Cook			500.00
7			1.04			501.04
8	3- 8-41			200.53		701.57
9	3-27-41			100.00		801.57
10	5-16-41			809.32		1,610.89
11			9.82	S		1,620.71
12	11-15-41	200.00	Edna E. Cook			1,420.71
13	12-26-41			250.00		1,670.71
14		Div. Jan 1, '42	17.75			1,688.46
15	2-18-42			200.00		1,888.46
16	3- 3-42			911.54		2,800.00
17	3-24-42			200.00		3,000.00
18	6-30-42			500.00		3,500.00
19		Div. Jul. 1, '42	31.61			3,531.61
20	7-31-42			800.00		4,331.61
21	8-29-42			200.00		4,531.61
22	9-14-42			468.39		5,000.00
23			57.05	P		5,057.05
24			63.21	L		5,120.26
						51.20

Signature

EDNA E. COOK

(Second Page of Ledger Card)

1		Div. Jan 1 '44	51.20		5,171.46
4	4- 7-44	3,500.00	Edna E. Cook Ck	48353	1,671.46
3	4-24-44	1,671.46	Edna E. Cook #	48530	0.00

The First Federal Savings & Loan Association
Spokane, Washington

PLAINTIFF'S EXHIBIT No. 22

Adm

FIRST

FEDERAL SAVINGS
and Loan Association
of Spokane
North 120 Wall Street
Spokane, Washington

No. 48530

Spokane, Wash.

April 24, 1944

Svgs. Acc't. #19248 Cook

PAY TO THE

ORDER OF * * * Edward H. Teed * * * \$1,671.46

1 st Federal \$1,671 & 46 Cts DOLLARS
Spokane 1,671.46 Con

To FIRST NATIONAL BANK IN SPOKANE

28-5 Spokane, Washington

E. T. HAY

Authorized Signature

(Endorsement on Back of Check)

EDWARD H. TEED

917 Foslir
Coeur d'Alene, Ia.
3K3

PLAINTIFF'S EXHIBIT No. 23

Adm

FIRST

FEDERAL SAVINGS
And Loan Association
of Spokane
North 120 Wall Street
Spokane, Washington

No. 48353

Spokane, Wash.

April 7, 1944

C: 19248 Cook

PAY TO THE

ORDER OF

EDWARD H. TEED

\$3,500.00

1 St. Federal \$3,500. & 00 Cts DOLLARS
Spokane

To FIRST NATIONAL BANK IN SPOKANE

28-5 Spokane, Washington

GEO. PATTULO

Authorized Signature

(Endorsement on Back of Check)

DR. EDWARD H. TEED

R

Pay to the Order of Any Bank, Banker or Trust Co.	Pay to the Order of Any Bank or Banker or Through Spokane Clearing House
All Prior Endorsements Guaranteed	All Prior Endorsements Guaranteed
Apr 12 1944	28 APR 13 '44 3324 28
Coeur d'Alene Branch	—
The Idaho First National Bank	3 3
Coeur d'Alene, Idaho	THE OLD NATIONAL BANK Of Spokane, Washington

PLAINTIFF'S EXHIBIT No. 26

Adm

(Record Telephone Call)

Date Apr 20 1944

Tel Out

Place
HAILEY, IDAHO

From

State

Tel No.

29 Att

Person

Spec. Inst.

T & C

To

Place
SPOKANE

State
WASH

Collect

Tel No.

Walnut 1635

Accepted

Person

Address Name

ASSOC. CO.

Filing Time 3 10 P

Disconnect 3 16 7

Operator 1

Connect 3 12 0 PM

Toll Center

Elapsed Time 4 7

Term Via

Mins 5 Class

First Route Bse

Charge 1 55

Alt. Route

Messenger Tax 39

1 94

PLAINTIFF'S EXHIBIT No. 27

Adm

(Pass Book)

No. 166213

EDNA E. COOK, or GEORGIE COOK

In Account With SPOKANE AND EASTERN BRANCH OF
Seattle-First National Bank
of Spokane, Washington

Date	Interest or Initials	Withdrawals	Deposits	Balance
Oct 14 '42	JC		1000 —	1000 —
Nov 18 '42	Ca		910 —	1910 —
Nov 30 '42	Ca		550 —	2460 —
Feb 1 '43	Ca		40 —	2500 —
Mar 11 '43	Ca		1125 —	3625 —
Int. Oct 1, 1943			15.29	3640.29
Int. Jan. 1, 1943			4.32	3644.61
Jul 14 '43			1375 —	5019.61
Int. Jan. 1, 1944			23.86	5043.47
Apr 7 '44	Pt	3500 —		1543.47
Apr 24 '44	Pt	1500		43.47

[35]

PLAINTIFF'S EXHIBIT No. 28

Adm

Application for

Cashier's Checks or Bank Drafts

SPOKANE AND EASTERN

Branch of Seattle-First National Bank

Spokane, Wash., Apr. 7, 1944

Payable To	Cashier's Check or Bank Draft On	Dollars	Cents
EDWARD H. TEED		3500	—
	Exchange		
	Total	3500	—
EDNA C. COOK (Svgs)			
	P		

PLAINTIFF'S EXHIBIT No. 29

Adm

Name	Signature	EDNA E. COOK	166213
Withdrawals	Deposits Interest	Date	Balance
	1,000.00	Oct. 14 '42	1,000.00
Interest accrued to	910.00	Nov 18 '42	1,910.00
Jan 1, '43 payable	550.00	Nov 30 '42	2,460.00
Jul 1, '43	4.32	Jan 1 '43	2,464.32
	40.00	Feb 1 '43	2,504.32
	1,125.00	Mar 11 '43	3,629.32
Int. Jul 1, 1943	15.29	Jul 1 '43	3,644.61
	1,375.00	Jul 14 '43	5,019.61
Int. Jan 1, 1944	23.86	Jan 1 '44	5,043.47
3,500.00		Apr 7 '44	1,543.47
1,500.00		Apr 24 '44	43.47
Int. Jul 1, 1944	.22	Jul 1	43.69

SPOKANE AND EASTERN

Branch of Seattle-First National Bank

Spokane, Washington

PLAINTIFF'S EXHIBIT No. 30

Adm

28-4 SPOKANE AND EASTERN 28-4
 Branch of Seattle-First National Bank

No. 31025

Spokane, Washington, Apr. 7 - 1944

Pay to the order of	EDWARD H. TEED	\$3500.00
Spokane		
& Eastern	\$3,500 and 00 Cts	DOLLARS

CASHIER'S CHECK

H. E. FOULKS

Assistant Cashier—Assistant-Vice
 President

W

(Endorsement on Back of Check)

DR. E. H. TEED

Pay to the Order of Any Bank, Banker
 or Trust Co. All Prior Endorsements
 Guaranteed Apr 10 1944

11 Coeur d'Alene Branch 11
 The Idaho First National Bank
 Coeur d'Alene, Idaho

PLAINTIFF'S EXHIBIT No. 31

Adm

(3 Sheets)

Geo. T. Clayton
Pacfic Hotel
Spokane, Wash.

In Account With
THE OLD NATIONAL BANK OF SPOKANE
Spokane, Washington

Geo. T. Clayton
Pacfic Hotel
Spokane, Wash.

Checks	Deposits	Date	New Balance	Date	New Balance
Balance Brought Forward		Mar 27 '44	784.57 \$	Mar 27 '44	784.57
79.44		Mar 29 '44	705.13 \$	Mar 29 '44	705.13
200.00		Apr 1 '44	505.13 \$	Apr 1 '44	505.13
55.00		Apr 6 '44	450.13 \$	Apr 6 '44	450.13
	1,050.00	Apr 12 '44	1500.13 \$	Apr 12 '44	1500.13
120.00		Apr 20 '44	1380.13 \$	Apr 20 '44	1380.13
Balance Brought Forward		Apr 27 '44	1380.13 \$	Apr 27 '44	1380.13
2,000.00		May 1 '44	3380.13 \$	May 1 '44	3380.13
380.00		May 6 '44	3000.13 \$	May 6 '44	3000.13
Balance Brought Forward		May 27 '44	3000.13 \$	May 27 '44	3000.13
1000.00		Jun 2 '44	2000.13 \$	Jun 2 '44	2000.13
2000.00		Jun 12 '44	.13 \$	Jun 12 '44	.13
	89.00	Jun 15 '44	89.13 \$	Jun 15 '44	89.13
89.13		Jul 21 '44	.00 \$	Jul 21 '44	.00

BAL

GARNISHMENT

[37]

United States of America

PLAINTIFF'S EXHIBIT No. 32
Adm

THE OLD NATIONAL BANK
of Spokane, Washington

Deposited For Account of

GEO. T. CLAYTON

Date May 1st, 1944

	Currency		Dollars 2000.	Cents	
ONB	5 3 9	May 1 44	2,000.00		D
28-3					

PLAINTIFF'S EXHIBIT No. 33
Adm

THE OLD NATIONAL BANK
of Spokane, Washington

Deposited For Account of

GEO. T. CLAYTON

Date April 12 1944

	Currency		1050.00	
ONB	8 8 8	Apr 12 44	1,050.00	D
28-3				

PLAINTIFF'S EXHIBIT No. 34

Adm

REGISTRATION CARD

Guests Without Baggage Please Pay in Advance

Money, jewels and valuables must be deposited in the office safe, otherwise the proprietor will not be responsible for any loss.

Name E. H. TEED
Street
City Coeur d'Alene, State Ida

Representing

Room	Rate	Arrive	Folio
214	1.00	12 30 P.M:	

Date	No. in Party	Clerk
April 21 1944	1	M

Remarks
(On Reverse of Card)

Room 214	TEEL, E. H.	OUT 2508
----------	-------------	----------

Month of	Arrive	Depart	No. Days	Rate	File No.	Amounts and Acct. Rendered
Apr 21	1944			1.00		

Date	Extras		Date,	Credit
Apr 21 1944	to 22nd	1.00	4/21	1.00
	to 23rd	1.00	4/22	1.00
	to 24th	1.00	4/23	1.00

OUT
Apr 24 1944

PLAINTIFF'S EXHIBIT No. 36

Adm

(15 Deposit Slips)

Deposited With		THE OLD NATIONAL BANK	
The Old National Bank & Union Trust Co		of Spokane, Washington	
For Account of		Deposited For Account of	
GEO T CLAYTON		GEO T CLAYTON	
Date	Aug 17 1943	Date	Sept 29th 1943
Currency	500.00	Checks	145.00
ONB	6 3 8 Aug 17 43 500.00 D	ONB	0 3 4 Sep 29 145.00 D
28-3		28-3	

THE OLD NATIONAL BANK		THE OLD NATIONAL BANK	
of Spokane, Washington		of Spokane, Washington	
Deposited For Account of		Deposited for Account of	
GEO T CLAYTON		GEO T CLAYTON	
Date	Oct 7 1943	Date	Oct 20 1943
Currency	150.00	Currency	200.00
ONB	4 8 7 Oct 7 43 150.00 D	Checks	56.00
28-3			
			<hr/>
			256.00
		ONB	5 6 0 Oct 20 43 256.00 D
		28-3	

THE OLD NATIONAL BANK

of Spokane, Washington

Deposited For Account of

GEO T CLAYTON

Date Nov 17th 1943

Currency \$200.00

1 3 1 Nov 17 43 200.00 D

ONB

28-3

THE OLD NATIONAL BANK

of Spokane, Washington

Deposited For Account of

GEO T CLAYTON

Date Dec 13, 1943

Currency 100.00

Checks 20.00

120.00

2 4 9 Dec 13 43 120.00 D

ONB

28-3

THE OLD NATIONAL BANK

of Spokane, Washington

Deposited for Account of

GEO T CLAYTON

Date Dec 8 1943

Currency 215.00

Checks 35.00

250.00

ONB 3 6 6 Dec 8 250.00 D

28-3

THE OLD NATIONAL BANK

of Spokane, Washington

Deposited for Account of

GEO T CLAYTON

Date Dec 22, 1943

Checks 88.48

56.70

31.78

ONB 4 4 0 Dec 22 88.48 D

28-3

THE OLD NATIONAL BANK

of Spokane, Washington
Deposited for Account of
GEO T CLAYTON

Date Jan 21 1943

Currency 95.00

Checks 5.00

100.00

ONB 7 1 6 Jan 21 44 100.00 D

28-3

THE OLD NATIONAL BANK

of Spokane, Washington
Deposited for Account of
GEO T CLAYTON

Date Feb 11 1944

Currency 150.00

Checks 65.35

" 44.49

259.84

ONB 0 4 6 Feb 11 44 259.84 D

28-3

THE OLD NATIONAL BANK

of Spokane, Washington
Deposited for Account of
GEO T CLAYTON

Date Feb 1st 1944

Currency 400.00

Checks 32.24

" 10.00

442.24

ONB 2 9 7 Feb 1 44 442.24 D

28-3

[39]

THE OLD NATIONAL BANK

of Spokane, Washington
Deposited for Account of
GEO T CLAYTON

Date Feb 24 1944

Currency 120.00

ONB 8 4 6 Feb 24 44 120.00 D

28-3

THE OLD NATIONAL BANK
of Spokane, Washington
Deposited for Account of

GEO T CLAYTON

Date Feb 28 1944

Currency	3 1 8	Feb 28 44	500.00	D
ONB	28-3			

THE OLD NATIONAL BANK
of Spokane, Washington
Deposited for Account of

GEO T CLAYTON

Date Sept 7 1943

Currency	6 1 5	Sep 7 43	225.00	D
ONB	28-3			

THE OLD NATIONAL BANK
of Spokane, Washington
Deposited for Account of

GEO T CLAYTON

Date June 15 1944

Checks	6 5 7	Jun 15 44	89.00	D
ONB	28-3			

[40]

PLAINTIFF'S EXHIBIT No. 37

Adm

(Signature Card)

Geo. T. Clayton

To The Old National Bank of Spokane, Washington

Below is my signature, which you will recognize in the payment of funds or the transaction of other business on my checking account. It is understood and agreed that your monthly maintenance charge may be made, whether or not this account is active. It is also agreed that items other than cash are received on deposit with the express understanding that they are taken for collection only.

Sign Here GEO T CLAYTON

Address Pacific Hotel Phone

Occupation Labor \$400 Cr Opened By ERE

Date Sep 15 1942 Reference
Introduced by

(Notation on back of card)

6-2044 Balance held a/c writ of garnishment \$89.13

Final ste mailed

PLAINTIFF'S EXHIBIT No. 38

Adm

W.G.G. 5/26/44

Original

Value One (1) Cent

TREASURY DEPARTMENT

United States Internal Revenue Order Form for
Opium or Coca Leaves, or Compounds, Manufactures,
Salts, Derivatives or Preparations Thereof
Under Section 2 of the Act of Congress Approved
December 17, 1914 Series of 1923

Special Tax under said Act in each of the classes and at the location specified below must be paid for a fiscal period covering the date inserted by the purchaser before this form may be used.

No. MM667338	Date 4-24 1944	This Order Is For Exactly 2 Items. Number of Items Must Be Specified By Purchaser or Form Returned
	To be filled in by Purchaser	

Unless this order calls only for one ounce of an aqueous narcotic solution, it may be filled only by an importer, manufacturer, producer, compounder, or wholesale dealer (a class 1 or 2 registrant); if filled by any other person, liability to tax under the Act as a producer will be incurred by the vendor if broken or unstamped packages are supplied, and liability to tax thereunder as a wholesale dealer will be similarly incurred if stamped packages are furnished.

The merchandise requested below may not be furnished if this form shows any alteration or erasure or evidence of any change whatsoever.

If unused upon discontinuance of business this form must be returned for cancellation to the collector who issued it.

Name, Address, Registry and Class Numbers, and District to be Inserted in Collector's Office.

E. H. TEED, M.D.
Coeur d'Alene, Ida.

Cl. 4—Reg #1072

Issued 7/12-30

Date

By EVAN EVANS
Collector

To McKesson & Robins

Street 160 S. Wall City Spokane State Wash [41]

You are requested to send to me at the location above specified by the collector of internal revenue for this district the following merchandise which comes within the purview of the act of December 17, 1914, as amended by the Act of November 23, 1921, for use, sale, or distribution in the lawful conduct of my business or legitimate practice of my profession, for which I am duly registered under the above stated registry number at this time under said Act, and for which I have paid the taxes necessary to qualify me in the above stated classes for a fiscal period covering the date of this order which has been inserted above by me:

TO BE FILLED IN BY PURCHASER					To be filled in by consignor	
Item	Catalogue Number If Any	Number of Pack- ages	Size of Package Number of Pounds Ounces, Grains, Pills, Tablets., et. in each Package	Name of Article Name of Narcotic Drug involved must be stated	Number of Stamped Packages Furnished	Date Filled
1		1	1000	Morph Sulph H T G 1/2	1	4/24
2		1	1000	Morph Sulph H T G 1/4	1	4/24
Chgd to Wilson C.D.A.						

2.
Name of Person or Firm if
Not an Individual

Dr. E. H. TEED
Signature of Purchaser, or His
Attorney or Agent

Adm

McKesson & Robbins, Incorporated
Spokane & Blumauer-Frank Division
Phone Riv. 2141
160 S. Wall St. Spokane, Wash.

Sold To Wilson's Phcy
Street Town Coeur d'Alene State Ida

Pricer									
Billor									
Scanner									

Credit Approval	Buyer	Check	Ship (How?) Waiting	Ship When Apr 24, 1944
-----------------	-------	-------	------------------------	---------------------------

Clerk	Check	Quantity	Unit	Customer's Order No.	Show Specifications	Cash Disc.	Extension	Class
1000-2		1	X	# 134 1000—H. T. Morph Sulph 1/2		2	20.00	8#
1000-1		1	X	# 132 1000—H. T. Morph Sulph 1/4		2	10.50	
							<u>30.50</u>	

DR. E. H. TEED

* Figure in red.

PLAINTIFF'S EXHIBIT No. 40

Adm

Name H. M. NORD — Clayton

Borrower's Liability Direct

Date	Principal	Paid	Balance
6- 5-40	100 —		100 —
11-26-40		100 —	
5-29-41	500 —		500 —
8- 6-41		500 —	
11-13-41	500 —		500 —
4-22-42		500 —	
7-21-42	200 —		200 —
“	150 —		350 —
8- 1-42	1750 —		2100 —
8-17-42		43.88	2056.12
9-28-42		41.47	2014.65
10-24-42		150 —	1864.65
“		41.68	1822.97
11-23-42		41.89	1781.08
12-21-42		42.09	1738.99
1-25-43		17.31	1721.68
2- 1-43		200.00	1521.68
2-23-43		17.39	1504.29
3-22-43	200 —		1704.29
3-22-43		17.48	1686.81
4-24-43		17.57	1669.24
4-28-43		200.00	1469.24
5-18-43		17.65	1451.59
6-21-43		17.74	1433.85
7-20-43		17.83	1416.02
8-21-43		17.92	1398.10
9-24-43		18.01	1380.09
10-22-43		18.10	1361.99
11-29-43		18.19	1343.80
12-30-43		18.28	1325.52
1-29-44			1325.52
3- 1-44		18.37	1307.15
3-27-44		18.46	1288.69
3-27-44		18.56	1270.13
4-25-44		18.65	1251.48
5-18-44		1251.48	

PLAINTIFF'S EXHIBIT No. 41

Adm

Feb 1933 837 April 10 44

R. C. PRATT FURNITURE STORE

Complete Home Furnishers

N. 213-215 Post St. Phone Riv. 6119

Spokane, Wash. 4/10/1944

When Wanted
4/10
5 P.M.

Sold to MRS. GEORGE CLAYTON
Address 7225 E. Carlisle
Orchard Ave.

Stock Number	Quantity Ordered	Items	Price Each	Total
3448	1	Rose Davenport & Chair	279.50	279.50
		Tax		8.39
				<u>287.89</u>

S 7

C O D

287.89
Less Trade 27.89

260.00 Receipt
4548
4/10/44

Cash Selling Price, (including any sales
tax) \$ 287.89

Payable at Terms of C O D less trade in

Delivered by
Campbell
Folio 1482
April 10 1944

PLAINTIFF'S EXHIBIT No. 44

CONTRACT—RECEIPT

Contract No.

Spokane, Washington, Apr 24 1944

The Old National Bank of Spokane has leased to me Box No. D 868 in the safe deposit vaults of the Old National Bank Building, such letting being subject to the rules and regulations printed on the receipt given, to which rules and regulations I hereby agree, and which rules and regulations are hereby made a part of this contract, all subject to State and Federal laws relating thereto.

CANCELLED*

CANCELLED*

I hereby acknowledge to have received two keys to said safe.
combination

Witness

Signed

RUTH WARNER

VERA WILSON

TRANSFERRED

Spokane, Washington, Aug 4-1944

Received from The Old National Bank of Spokane.....
Dollars for Key DepositDollars for Unexpired Rental
in full settlement of account.

I hereby acknowledge that all the property stored in the safe deposit vaults of the Old National Bank of Spokane, pursuant to the above contract, and the extensions and renewals thereof, has been safely withdrawn therefrom, and all liability of said Bank therefore is hereby accordingly released.

I hereby surrender said Box No. by reason of—Transferred to Harold Gleeson.

Witness

Signed

H. C. ROBB

VERA WILSON

(On reverse side of card)

Vera Wilson

IDENTIFICATION

Box No. D 868

Signature VERA WILSON

Annual Rate \$12.00

Residence Kettle Falls Gen. Del.

Business None

Telephone

CANCELLED*

CANCELLED*

Birthday May 14

Mother's Maiden Name Grace Van Alstine

Reference

Remarks

* Printed in red.

[46]

PLAINTIFF'S EXHIBIT No. 45

(7 Slips—Safe Deposit Department)

The Old National Bank of Spokane

Safe Deposit Department W

-868- Apr 24 2 39 PM 1944

The undersigned, lessor or other person duly authorized to enter the safe deposit box numbered below, hereby applies for entry thereto.

Sign Here VERA WILSON Box Number D 868

The Old National Bank of Spokane

Safe Deposit Department H

-868- May 1 2 47 PM 1944

The undersigned, lessor or other person duly authorized to enter the safe deposit box numbered below, hereby applies for entry thereto.

Sign Here VERA WILSON Box Numbr D 868

The Old National Bank of Spokane

Safe Deposit Department H

-868- May 4 2 58 PM 1944

The undersigned, lessor or other person duly authorized to enter the safe deposit numbered below, hereby applies for entry thereto.

Sign Here VERA WILSON Box Number D 868

The Old National Bank of Spokane

Safe Deposit Department W

-868- May 10 10 56 AM 1944

The undersigned, lessor or other person duly authorized to enter the safe deposit numbered below, hereby applies for entry thereto.

Sign Here VERA WILSON Box Number D 868

The Old National Bank of Spokane

15 Safe Deposit Department H

-868- May 16 2 49 PM 1944

The undersigned, lessor or other person duly authorized to enter the safe deposit numbered below, hereby applies for entry thereto.

Sign Here VERA WILSON Box Number D 868

[47]

The Old National Bank of Spokane

Safe Deposit Department H

-868- May 17 4 21 PM 1944

The undersigned, lessor or other person duly authorized to enter the safe deposit box numbered below, hereby applies for entry thereto.

Sign Here VERA WILSON Box Number D 868

The Old National Bank of Spokane

Safe Deposit Department H

-868- May 29 3 13 PM 1944

The undersigned, lessor or other person duly authorized to enter the safe deposit box numbered below, hereby applies for entry thereto.

Sign Here VERA WILSON Box Number D 868

[48]

PLAINTIFF'S EXHIBIT No. 46
MONEYS HELD IN CASE UNITED STATES
VS. SHIRLEY DOORES

Currency numbered as follows:

\$50. L 01829400A	\$50. L 10931451A
\$50. L 00125825A	\$50. L 01931206A
\$50. L 01829364A	\$50. L 01757633A
\$50. L 01772030A	\$50. L 10866270A
\$50. L 01859272A	\$50. L 01866854A
\$50. L 00636650A	\$50. L 01866970A
\$50. L 00280465A	\$50. L 00399166A
\$50. L 01386221A	\$50. L 01860498A
\$50. H 00213522A	\$50. L 01803405A
\$50. L 01859641A	\$50. L 01866521A
\$50. L 01861481A	\$50. L 01862736A
\$50. L 01772300A	\$50. L 01757991A
\$50. L 00216190A	\$50. L 01865843A
\$50. E 02851603A	\$50. L 01865809A
\$50. L 01861580A	\$50. L 01758545A
\$50. L 00354035A	\$50. L 01772218A
\$50. L 00025567*	\$50. L 01866013A
\$50. L 00241893A	\$50. L 01865303A
\$50. L 00353302A	\$50. L 01866140A
\$50. L 01779483A	\$50. L 00574060A
\$50. L 01866272A	\$50. L 01866159A
\$50. L 01866274A	\$50. L 01931521A
\$50. L 01931633A	\$50. F 00420190A
\$50. L 01931634A	\$50. L 01827197A
\$50. L 01931635A	\$50. L 01772107A
\$50. L 01864816A	\$50. L 01859564A
\$50. L 01865535A	\$50. L 01865837A
\$50. L 01866442A	\$50. L 01931352A
\$50. L 01931587A	\$50. L 01444934A
\$50. L 01864730A	\$50. L 01863993A
\$50. L 01856760A	\$50. L 00636679A
\$50. L 01451887A	\$50. L 01772270A
\$50. L 01866060A	\$50. L 01772454A
\$50. L 01829569A	\$50. L 00848391A
\$50. L 01931774A	\$50. L 01321842A

\$50. L 01463394A	\$50. L 01867610A	
\$50. L 01931358A	\$50. L 01858118A	
\$50. L 01866125A	\$50. L 01361712A	
\$50. L 01931435A	\$50. L 01772260A	
\$50. L 01865466A	\$50. L 01828239A	
\$20. L 51320713A	\$100. L 02827554A	
\$20. E 38021887A	\$100. L 02827553A	
\$20. L 58167984A	\$100. L 02827552A	
\$20. L 56385703A	\$100. L 02827551A	
\$20. L 40079292A	\$100. L 02909629A	
\$20. L 56396002A	\$100. L 00092990A	
\$20. L 58167553A	\$100. L 01817224A	
\$20. L 58165303A		
\$20. L 58166828A	\$50. L 10865722A	\$50. L 01867467A
\$20. L 58161601A	\$50. L 00824632A	\$50. L 01864206A
\$20. L 42235280A	\$50. L 01772430A	\$50. L 01931966A
\$20. L 58165226A	\$50. L 01544338A	\$50. E 02013245A
\$20. L 42345832A	\$50. L 01761111A	\$50. L 01828100A
\$20. L 49538068A	\$50. L 01515937A	\$50. L 01859224A
\$20. L 58165252A	\$50. L 01931783A	\$20. L 58164737A
\$20. L 55727449A	\$20. L 58164835A	\$20. L 58166500A
\$20. L 42625694A	\$20. L 58167226A	\$20. L 55470926A
\$20. L 56386304A		
\$20. L 58165215A	<hr/> \$5.950. Total (May 29, 1944)	
\$20. L 19762019A		
\$20. L 58165691A		
\$20. L 57380058A		
\$20. L 57380037A		
\$20. L 58161897A		
\$20. L 32103308A		

DEFENDANT'S EXHIBIT No. "A" Adm

5-27-44

May 24—1944

Dr. Teed

Dear Doc.

This is to introduce Mr. Emery. This is the party I spoke to you about. If you can do anything for him I would consider it a favor.

W. J. GRAVEN

S-6 (A)(B)(C)

5-27-44

S.D.S.

(On reverse side of letter)

5-27-44

Red from Dr. Teed

H. H. HANER

DEFENDANT'S EXHIBIT No. "B"

Manhattan Mont.

Feb 2

Dear Shirley

I arrived ok. stoped in Helena and I seen that party, and everything was alright, I seen this party here at Manhattan, and he was alright Say Shirley if you will wire me twenty dollars, I will see this party here again, and will come right home, I will give you 25 dollars soon as I get there; you no what I mean 25. for 20 dollars I no you cant beat that; or you wire me that and I will meet you in Helena wire 20 dollars anyway please and dont say any-

thing to any one about me being out of town: Just say Im out looking for a job and I will be back the first of next week: wire me that money to 401 N. Black St, Bozman Montana care of Lee Ping: Answer right back

Love

BUNNY

over

My address Bunny Doores, 401 N. Black St., C/o Lee Ping, Bozeman, Montana.

Wire me right away:

Boric or Boracic acid [50]

WESLEY DOORES

Direct Examination

* * * *

Q. Did you have any further conversation with him (Clayton) along the same line or about the same subject, either then or later?

A. Along about the latter part of January, I would say, it could have been earlier or later—I don't remember the exact date—I was asleep at the house one night when a fellow knocked on the door about 2 o'clock in the morning, and called George outside, and talked with him quite a while, and he came back in and asked at that time if I knew where he could get a federal badge or credentials; that he had someone that wanted to go on the Coeur d'Alene job he wanted me to go on, and I told him I didn't know where he could get any.

Q. Did you have any further conversation with Mr. Clayton at the house or down town with reference to the same subject?

A. Later on, I would say three or four weeks, maybe earlier, I was playing cards in Moore's Tavern one night when a fellow came in and watched the game for a while, and went out, and George told me at the time that was the fellow that wanted to go on the job at Coeur d'Alene, but he had backed out because he couldn't get any credentials for him.

Q. Are you acquainted with Ed Kelly?

* * * *

Cross Examination

Q. Was it in the month of January that this incident occurred in the Moore's card room where some man was pointed out to you?

A. No, sir; I think that was about the first of February.

Q. Will you describe the incident again?

A. The guy came in and sat there and was watching the card game and George said to me that was the fellow that wanted to go to Coeur d'Alene, and he backed out because he couldn't get a badge or credentials.

Q. What kind of a looking man was this?

A. A tall, slim, dark-complected man.

* * * *

Q. And this man you saw at the county jail (William Singer) was the same man that came in the Moore's card room about the first of February, and George Clayton said "There is the fellow that

I wanted to go to Coeur d'Alene but he backed out and wouldn't go because I couldn't get him a badge and [51] credentials?" A. Yes, sir.

Q. And your best recollection of that date is the first of February?

A. Somewhere about that time.

* * * *

DEFENDANT'S EXHIBIT "D"

This deed is statutory form for use in State of Washington only.

WARRANTY DEED

The Grantor George Clayton, a bachelor of Spokane County of Spokane State of Washington for and in consideration of One diamond ring valued at \$3,000.00 Dollars in hand paid, convey and warrant to Sherley Doores the following described real estate, situated in the County of Spokane State of Washington:

The East fifty-four (54) feet of Tract Six (6) of First Addition to Edgerton, as per map thereof recorded in Book "L" of Plats, page 2, in the office of the County Auditor of said County.

Subject to

incumbrance of record; also subject to assessments for Orchard Avenue Irrigation District and to assessments by Spokane Valley Fire Protection District No. 1

Dated this 4th day of February 1944.

[Seal] GEORGE CLAYTON

(\$6.30 in Documentary Stamps affixed)

State of Washington,
County of Spokane—ss.

I, the undersigned, a Notary Public in and for the above named County and State, do hereby certify that on this 4th day of February 1944 personally appeared before me George Clayton, a bachelor to me known to be the individual described in and who executed the within instrument, and acknowledged that he signed and sealed the same as his free and voluntary act and deed, for the uses and purposes herein mentioned.

Given under my hand and official seal the day and year last above written.

[Notarial Seal] DEL CARY SMITH, Jr.

Notary Public for State of Washington Residing
at Spokane [52]

(On reverse side of Warranty Deed)

614295A

WARRANTY DEED

To

Cla	21	x Indexed	x
		Recorded	
	36	Compared	x*
Doo		x Paged	x

* In red.

State of Washington,
County of Spokane—ss.

This is to certify that this instrument was filed for record in the office of the Auditor of Spokane County at the request of Grantee on this Mar 8, 1944 at 4 30 PM, and Recorded in volume 510 record of Deeds of said County on page 313.

JOE A. STEWART

County Auditor

M. PEARSON,

Deputy

Recorded by

L. BOWER,

Deputy

Mail to Reg. 7225 E. Carlisle, City.

Fee 60

DEFENDANT'S EXHIBIT No. E

This deed is statutory form for use in State of Washington only.

QUIT CLAIM DEED

3 30

3 —

6 30

The Grantor Sherley Doores, unmarried at all times since acquiring title of Spokane, County of Spokane, State of Washington for and in consideration of Three thousand dollars - - - Dollars, in hand

paid, conveys and quit claims to George Clayton, a bachelor all interest in the following described real estate, situated in the County of Spokane State of Washington:

The East fifty-four feet (54) of Tract six (6) of First Addition to Edgerton, Spokane County, Washington, as per map thereof recorded in Book "L" of Plats, page two, in the office of the Auditor of said County.

Subject to

incumbrances of record; also subject to assessments for Orchard Avenue Irrigation District and to assessments by Spokane Valley Fire Protection District No. 1. [53]

Dated this 8th day of May, 1944.

[Seal] SHERLEY DOORES
(\$6.30 in documentary stamps affixed)

State of Washington,
County of Spokane—ss.

I, the undersigned, a Notary Public in and for the above named County and State, do hereby certify that on this 8th day of May 1944, personally appeared before me Sherley Doores, unmarried to me known to be the individual described in a and who executed the within instrument, and acknowledged that she signed and sealed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal the day
and year last above written.

[Notarial Seal] M. R. NORTON

Notary Public for State of Washington Residing
at Spokane

(On reverse side of Deed)

621312A QUIT CLAIM DEED

To

Doo

36

Cla

x Indexed	x
Recorded	
Compared	x*
x Paged	x

State of Washington,
County of Spokane—ss.

This is to certify that this instrument was filed
for record in the office of the Auditor of Spokane
County at the request of Grantee on this May 16
1944 at 12 46 PM and Recorded in volume 514
record of Deeds of said County on page 3.

JOE A. STEWART

County Auditor

A. P. RATH,

Deputy

Recorded by

F. LILLIE,

Deputy.

Mail To Reg 7225 E. Carlisle, City.
Fee 75 [54]

* In red.

DEFENDANT'S EXHIBIT No. F

This deed is statutory form for use in State of Washington only.

WARRANTY DEED

The Grantor, George Clayton, a bachelor of Spokane County of Spokane State of Washington for and in consideration of Three thousand and no/100 - - - Dollars, in hand paid, conveys and warrants to Shirley Doores, a spinster the following described real estate, situated in the County of Spokane, State of Washington:

The east fifty-four (54) feet of Tract Six (6) of First Addition to Edgerton, as per map thereof recorded in Book "L" of Plats, page 2, in the Office of the County Auditor of said County.

Subject to incumbrance of record; also subject to assessments for Orchard Avenue Irrigation District and to assessments by Spokane Valley Fire Protection District No. 1

Dated this 16th day of May 1944.

[Seal] GEORGE CLAYTON

State of Washington,
County of Spokane—ss.

I, the undersigned, a Notary Public in and for the above named County and State, do hereby certify that on this 16th day of May 1944 personally appeared before me George Clayton to me known to be the individual described in and who

executed the within instrument, and acknowledged that he signed and sealed the same as his free and voluntary act and deed, for the uses and purposes herein mentioned.

Given under my hand and official seal the day and year last above written.

[Seal]

HARRISON H. BERKEY

Notary Public for State of Washington Residing
at Spokane [55]

[Title of Court and Cause.]

PRAECIPE FOR TRANSCRIPT OF RECORD

To the Clerk of the above-named Court:

Will you please prepare, duly certify, and send to the United States Circuit Court of Appeals for the Ninth Circuit a transcript of the record in the above-entitled case for use in the appeal of the defendant George Clayton to the said Circuit Court of Appeals from the judgment entered in the above-entitled case, by including in said transcript the following items from the files and records of the above-entitled case in the District Court deemed necessary for a full and complete consideration of said appeal:

1. Indictment, filed August 11, 1944.
2. Arraignment and Plea of George Clayton, filed August 16, 1944.
3. Arraignment and Plea of Shirley Doores, filed August 16, 1944.

4. Arraignment and Plea of Shirley Doores, filed December 4, 1944.

5. Verdict, filed December 12, 1944.

6. Judgment and Sentence of George Clayton, filed December 11, 1944.

7. Motion in Arrest of Judgment, filed December 13, 1944.

8. Motion for New Trial, filed December 13, 1944.

9. Opinion of the Court on Defendants' Motion for New Trial, entered January 13, 1945.

10. Order denying Motion for New Trial and Motion in Arrest of Judgment filed January 15, 1945.

11. Notice of Appeal of George Clayton, filed January 17, 1945. (Grounds of Appeal annexed.)

12. Order fixing bond on Appeal, filed January 17, 1945.

13. Bail Bond pending determination of Appeal, filed January 17, 1945.

14. Order giving directions for preparation of record on appeal, entered January 19, 1945. (P. 699, Journal 16.)

15. Order for Extension of Time for the Settlement and Filing of Bill of Exceptions and Assignments of Error and Praecipe, filed February 9, 1945.

16. Bill of Exceptions, settled and certified herein on April 16, 1945.

16½. All exhibits received in evidence.

17. Order settling and certifying Bill of Exceptions, filed April 16, 1945.

18. The Assignments of Error, filed herein on April 16, 1945. [56]

19. Praecipe for Transcript of Record, filed April 16, 1945.

Said transcript of record to be prepared and filed in the United States Circuit Court of Appeals for the Ninth Circuit as required by law and the Rules of said Circuit Court of Appeals.

Dated April 16, 1945.

Respectfully,

HAROLD M. GLEASON

ROBERTSON & SMITH

By DEL CARY SMITH, JR.

Attorneys for defendant-

appellant George Clayton

Service of two copies of the appellant's Praecipe is hereby acknowledged this 16th day of April, 1945.

EDWARD M. CONNELLY

United States Attorney, Attorney for the appellee,
The United States of America.

[Endorsed]: Filed April 16, 1945. [57]

CLERK'S CERTIFICATE TO TRANSCRIPT
OF RECORD

United States of America,
Eastern District of Washington—ss.

I, A. A. LaFramboise, Clerk of the District Court of the United States for the Eastern District of

Washington, do hereby certify the foregoing type-written pages numbered from 1 to 57 inclusive, to be a full, true, correct and complete copy of so much of the record, papers and all other proceedings in the above entitled cause, as are necessary to the hearing of the appeal therein, in the United States Circuit Court of Appeals, as called for by the appellant in his Praecipe for Transcript of Record, as the same remain of record and on file in the office of the Clerk of said District Court, and that the same constitute the record on appeal from the Judgment and Sentence of the District Court of the United States for the Eastern District of Washington, to the Circuit Court of Appeals for the Ninth Judicial Circuit, at San Francisco, California.

I further certify that I hereto attach and herewith transmit the original Assignments of Error and the settled Bill of Exceptions in this cause.

I further certify that the cost of preparing and certifying the foregoing transcript is the sum of \$24.95, and that the said sum has been paid to me by Robertson & Smith, of Attorneys for the Appellant.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said District Court at Spokane, in said District, this 20th day of April, 1945.

[Seal] A. A. LaFRAMBOISE
Clerk, U. S. District Court, Eastern District of
Washington.

In The District Court of the United States for
the Eastern District of Washington, Northern
Division.

C-7702

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GEORGE CLAYTON,

Defendant.

BILL OF EXCEPTIONS

COURT REPORTER'S TRANSCRIPT OF TESTIMONY

Be It Remembered that the above entitled and numbered cause came on for trial before the Hon. L. B. Schwellenbach, judge, at the hour of 3:40 o'clock p.m., December 4, 1944, at the court room of said court, in the Federal Building, at Spokane, Washington; the plaintiff appearing by Mr. Edward M. Connelly, the United States Attorney for said Eastern District of Washington, the defendant appearing in person and by his attorneys, Mr. Del Cary Smith and Mr. Harold Gleeson; both sides having announced they were ready for trial, a jury was then and there duly empaneled and sworn to try the said cause, the defendant consenting that the jury might separate during recesses and adjournments of court, the Court duly admonished the jury as to its duties during recesses and adjournments of court, and an adjournment was had to

the hour of 1:15 o'clock p.m., December 5, 1944, at which time, all parties being present as heretofore, on motion of the defendant witnesses were ordered excluded from the court room during the trial, all witnesses present being duly sworn, and admonished by the court in regard to their duty not to discuss the case, etc., the defendant consenting that Mr. Samuel Smith, of the Federal [1] Bureau of Investigation and the United States Marshal might remain in the court room during the trial;

Whereupon Mr. Connelly made an opening statement to the jury of the plaintiff's case, in part as follows:

OPENING STATEMENT

Mr. Connelly: * * * The evidence will likewise show that in January the defendant George Clayton had talked with Wesley Doores, or Bunny Doores, the brother of Shirley Doores, and that he stated to him that this doctor from whom Shirley was getting morphine at Coeur d'Alene was good for a touch, and that they should be able to run up a pretty good score on him. That he asked Bunny Doores if he would impersonate a federal narcotic officer and go up there and put a scare into the doctor. That Bunny Doores refused to do this, stating that he was only out of the penitentiary at Walla Walla a short time, and he was on parole, and he did not care to get into any-

*Page numbering appearing at foot of page of original Bill of Exceptions.

thing of that character or take any risk like that.

The evidence will further show that thereafter in March, 1944, the defendant George Clayton, on his invitation from Shirley Doores to Kelly to come—the evidence will show in March the defendant Kelly first met Shirley Doores. That he was introduced to her by George Clayton at the home occupied by the two. That on April 9th Shirley asked Kelly to come to the house, and that Clayton [2] drove Kelly out to the house. That Wesley Doores, or Bunny, was there, and Shirley Doores and Clayton and Kelly. That the four there discussed the proposition of putting a scare into Dr. Teed, as Clayton put it, by having Kelly impersonate a federal narcotic inspector, and to go out to Coeur d'Alene and tell him he had checked up on the Mike Sanders prescriptions, and that it looked bad for the doctor. That Clayton said to Kelly that Shirley had enough on the doctor to get a lot of money out of him. And that during the conversation Kelly agreed to attempt to impersonate a federal narcotic inspector and go out and contact the doctor. That all of the conversations concerning this matter were participated in by the four, Shirley, Clayton, Kelly and Bunny Doores. That during that conversation after Kelley had agreed to try it, Clayton said to Kelly "What are you going to say to the doctor when you meet him?", and that when they had gotten toward the end of their discussion, Clayton said to Kelly "Throw a good scare into the doctor and let Shirley do the rest."

During that conversation and before Kelly had agreed to it, to go along with it, Kelly said "Why don't you have Bunny do it?" And Clayton said "No, Bunny will not do on a deal of this kind. We are afraid the doctor may know him." And it was then agreed between the four of them [3] that Shirley would go to Coeur d'Alene and Kelly would go to Coeur d'Alene on an early bus the following morning. That at the conclusion of the conversation Clayton drove Kelly down town. That Kelly missed the bus that they had agreed upon by a few minutes, and took a taxicab and drove out along the route the bus takes and caught the bus and got on it. That Shirley was already on the bus. That they stayed apart for a time during the journey to Coeur d'Alene and later they sat together in a seat and came into Coeur d'Alene together.

We will have the bus driver here to testify to those facts. After they reached there, which was on April 10, the transaction about meeting the doctor and being introduced by Shirley took place. Shirley went to the doctor's office first, and Kelly followed and was sitting in the waiting room, and Shirley came out of his private office and they greeted each other, and she introduced him as Mr. Graven, the federal narcotic agent from Seattle.

Bunny Doores will likewise testify to the conversations that took place at the home during which it was agreed between the four that this transaction would be executed. Bunny will also testify that at Clayton's request he sat in the Halliday

Hotel to wait for a 'phone call where he would be called from the lobby, and that he stated over the 'phone things which Clayton had instructed [4] him to say when the call came.

The evidence will further show that the home in which Clayton and Shirley lived was originally purchased by George Clayton from a George Wiseman; that he conveyed it by deed to Shirley Doores on February 4, 1944; that on May 18th Shirley conveyed it back to George Clayton, and on May 18th George Clayton went to the Spokane Valley State Bank and paid a balance of \$1,261, and some cents due upon a mortgage on that property which was held by the bank.

The evidence will further show that Shirley Doores purchased an automobile which was later used by George Clayton, from the Barton Auto Company, during the month of April, 1944, and that she paid for the automobile the sum of \$1,700 in one-hundred dollar bills.

The evidence will further show that George Clayton maintained a bank account at the Old National Bank in Spokane, and that on April 12, 1944, he deposited in that account \$1,500.13, and that on May 1, 1944, that he deposited in that bank account, his own bank account, \$2,000 even, and that no such amounts in that figure had been deposited previously or thereafter, by Clayton, in a bank account.

The evidence will further show that after the arrest of Shirley Doores she asked to be brought to my office [5] in the company of Mr. Smith and

Mr. Albright and some police officer, and that she stated in the presence of these men and to me that she thought I wouldn't give her bum advice, and what would I suggest that she do. And that I replied to her that if it was as bad as it looked at that time I thought probably the best thing she could do would be to make restitution of the money, and she stood up and said to Mr. Albright and Mr. Smith "Come on; I think Ed is telling it to me straight" or "giving it to me straight", or something of that sort, "that is what I will do." And she took the men out to her home and secured a key to a safety deposit box at the Old National Bank, and that Mr. Bezona, the Marshal, went with Mr. Smith and the other officer and Shirley Doores, and that in a lock box in the Old National Bank under the name of Thelma West she turned the key over to Marshal Bezona and gave permission that the box be opened, and it was opened, and she turned over \$5,900 and some odd dollars, stating that was what she had lifted, or that she had secured from Dr. Teed. That a few days after that or a day or so after that, she also told some one of the officers that she had some of that money over at the First National Bank, and the Marshal went in the box that was opened and \$200 in currency was taken from that box. Each of those amounts have been preserved by the Marshal, and will be offered in evidence.

That in the main will be the government's evidenc

Mr. Smith: We will reserve our statement. [6]
(By direction of the Court the jury retired
to the jury room.)

EDWARD WILLIAM KELLY

called as a witness by the Plaintiff, was examined
as follows:

By the Court:

Q. You are the Edward William Kelly who is
named as one of the defendants in this indictment?

A. Yes, sir.

Q. You have entered a plea of guilty?

A. Yes, sir.

Q. You are now being called as a witness on
behalf of the government. You understand the
government cannot force you to testify unless you
are willing to testify? A. Yes, sir.

Q. You can refuse to testify on the ground it
might incriminate you? You understand that?

A. Yes, sir. I do.

Q. And despite that fact you are willing to
testify? A. Yes.

(The jury then took its place in the jury
box, the witness was duly sworn, and testified
as follows:)

Direct Examination

By Mr. Connelly:

Q. Will you state your name to the court and
jury, please?

(Testimony of Edward William Kelly.)

A. Edward William Kelly. [7]

Q. At the present time where are you living?

A. In the county jail.

Q. Where were you born?

A. In Minot, North Dakota.

Q. How old are you? A. Thirty-four.

Q. Have you ever lived in Spokane?

A. I lived here the year previously—I was here the year previous to this thing.

Q. When did you first come here?

A. Sometime in July, last year.

Q. Have you ever met the defendant, George Clayton? A. Yes, sir; I have.

Q. Where did you first meet him?

A. In Spokane.

Q. When did you meet him, approximately?

A. Sometime in July, last year.

Q. What occupation did you follow while you were living in Spokane?

A. Well, none. I was a bartender.

Q. And when you met Mr. Clayton do you know what his occupation was?

A. No, I didn't know he had any.

Q. Have you ever met Shirley Doores?

A. Yes. [8]

Q. Where did you meet her?

A. I met her through Mr. Clayton.

Q. Did you meet her as Shirley Doores or some other name?

A. I don't remember whether it was Shirley Doores or Shirley Clayton.

(Testimony of Edward William Kelly.)

Q. Where did you meet her?

A. I don't remember where I met her.

Q. How long had you known Shirley Doores and George Clayton prior to April 9, 1944?

A. Well, I knew Clayton a long time before I knew Shirley Doores. I met her afterwards through him.

Q. Can you tell us approximately when you met her?

A. The first conversation I remember having with Shirley Doores was sometime after the first of the year in 1944, January or February, I think.

Q. Did you ever have occasion to visit or go to the home situated at 7225 East Carlisle, in this city?

A. Yes.

Q. Can you tell us about the first time it was you went there?

A. I couldn't say the first time when I went there, no. I wouldn't know.

Q. Who was there when you went there?

A. Mr. Clayton was there the first time. I think I went out there with him the first I went out.

Q. Now directing your attention to on or about April 9, 1944, [9] can you tell us whether or not you had occasion to be out at that home on that day?

A. Yes, sir; I was out there.

Q. What were the circumstances under which you happened to be there?

A. I just went out to visit them or eat dinner. There was no special occasion that I know of.

(Testimony of Edward William Kelly.)

Q. Whom did you go there with?

A. I think I went out with Bunny, Shirley's brother, but I don't know whether I went with him or by myself. I know we were all there at the same time.

Q. Who was there after you got there?

A. Clayton, Shirley and Bunny, and myself.

Q. Do you recall whether or not you had dinner there at that time?

A. I don't think I did.

Q. Do you know what time of day or evening it was?

A. Yes, sir; I went out between 4 and 5 o'clock in the afternoon, Sunday afternoon.

Q. After you were there will you state whether or not there was any conversation with reference to a doctor at Coeur d'Alene, and, if so, state what that conversation was, and with whom?

A. Well, after I got there Shirley Doores brought this doctor's name—she didn't tell me the doctor's name until later—but asked if I would like to make some money, and [10] I told her yes, and she told me she had enough on this doctor for the sale of narcotics we could go up there and get some money from him, on the strength of what she knew.

Q. Who was there when she said that?

A. Clayton was there, and Bunny and myself.

Q. What, if anything, further was said in connection with that subject by you or any other party in your hearing and presence?

(Testimony of Edward William Kelly.)

A. We discussed it for an hour or an hour and a half, what I would do and what she would do and what Bunny would do.

Q. What, if any, part in that conversation did Mr. Clayton take?

A. Well, the only part he took in the conversation, he told me—we were talking about the doctor, and what would be the best way to approach him, and he said “I think the best way is to go up there and throw a good scare into him.”

Q. Was there anything further said?

A. No, sir; there was nothing further said. I told him I did not think that would be the right way to approach it.

Q. Before you got to that point, what was suggested what, if any part, you would take in this matter?

A. I was supposed to take the part of W. J. Graven, the federal narcotic agent. [11]

The Court: How do you spell that name?

Mr. Connelley: The correct spelling of the man's name is G-r-a-b-e-n, but all I know of this case is that it has been pronounced G-r-a-v-e-n, as though there was a “v” in it.

Q. Who suggested you take the part of Graven?

A. Shirley Doores did, while we were discussing the thing.

Q. Do you recall anything further that Mr. Clayton had to say with reference to what you would do up there, and when you would go, or who would go?

(Testimony of Edward William Kelly.)

A. He didn't come right out and say who would go or when we would go, but he was there and knew when we would go.

Mr. Smith: I object to the answer as being a conclusion of the witness.

The Court: I will strike the last portion, that he was there and knew—whatever the last words were. I instruct the jury to disregard that portion of the answer.

Mr. Connelly: That portion that Mr. Clayton was present?

The Court: No.

Q. Will you tell us as nearly as you can recall, either the words or the meaning and substance of them, what plans, if any, were made about your going up to contact this doctor, and who was present when the plans were discussed?

A. Clayton was present, Shirley and Bunny, and myself were present when the plans were made, and we all took some [12] part in it.

Q. Can you tell us who suggested when you might contact this doctor, and pertaining to a narcotic inspector?

A. I think Shirley suggested it.

Q. What time was suggested?

A. Well, the time that was suggested would be the first thing next morning, because he was supposed to be leaving town and going on a vacation.

Q. Who told you that? A. Shirley.

Q. Will you state whether or not during the course of that conversation you agreed immedi-

(Testimony of Edward William Kelly.)

ately or otherwise about going up there and impersonating a narcotic inspector?

A. At first I said no, and after they talked a while I agreed to it.

Q. State whether or not you made any suggestion about anyone else impersonating a narcotic inspector instead of you?

A. Yes, sir; I said I thought Bunny could do it as good as I could or better.

Q. And what did Mr. Clayton say?

A. He said Bunny would be no good in that kind of a deal, because he thought Dr. Teed knew Bunny.

The Court: Who knew Bunny?

A. Dr. Teed knew Bunny.

Q. (Mr. Connelly): That is the statement you say Clayton made? [13]

A. Yes, sir.

Q. And after that can you tell us whether or not you finally agreed to go ahead?

A. Yes, sir; I agreed to go ahead.

Q. How was it arranged you would get to Couer d'Alene, and what was said in that connection?

A. We agreed to meet each other next morning and take the bus. I was to get the bus from downtown and meet her, and she would catch the bus from the bus-stop out by her home.

Q. Approximately how far out is that home?

A. I wouldn't say. It is five or six miles anyway.

(Testimony of Edward William Kelly.)

Q. Do you know whether or not it is in the vicinity of the Trent Highway over into Idaho?

A. The bus goes right along that highway.

Q. Do you know how far the house is from the highway?

A. I would say two or three blocks.

Q. At any time that evening while you were discussing this matter was the name of the doctor whom you were discussing mentioned?

A. Yes, sir. It was.

Q. Who mentioned the name of the doctor?

A. Shirley finally mentioned his name.

Q. Do you know whether or not Mr. Clayton was there when she mentioned the name?

A. He was [14]

Q. And was Bunny there? A. He was.

Q. About what time did you leave that place that night? A. About 12 o'clock.

Q. How did you return into the city?

A. Clayton brought me down in the car.

Q. The next morning what did you do?

A. I got up and made an attempt to catch the bus downtown, and missed it. I got a taxi and went out and headed the bus off and got in the bus there.

Q. About where did you catch it?

A. I don't know the streets out there, but I caught it I think around Orchard Avenue, just ahead of where she got on.

Q. Was Shirley on the bus when you got on it?

A. No, sir.

(Testimony of Edward William Kelly.)

Q. How long after that was it she got on?

A. The very next stop.

Q. Did you and she sit together in riding to Coeur d'Alene?

A. I don't think we did right away. I got on the bus first and it seems to me the bus was crowded, and I sat by myself for a few minutes, and when she got on we got a seat together.

Q. Going back to the conversation at the house the evening before, can you tell us whether or not at any time anyone [15] used or referred to the name of Mike Sanders?

A. Yes, sir. His name was mentioned.

Q. Who mentioned it? A. Shirley.

Q. What did she say in connection with that name, what was said about Mike Sanders, and what, if anything, you would do in connection with Mike Sanders?

A. She told me that Dr. Teed had been writing narcotic prescriptions for a fellow named Mike Sanders, and there was no such man in existence.

Q. Was Mr. Clayton present when she told you that?

A. Yes, sir; he was. He was present at all times.

Q. What, if anything, was said by Mr. Clayton or Shirley or Bunny as to what you were to say or do about Mike Sanders when you met Dr. Teed?

A. Shirley said to go in and tell this doctor I knew that he had been writing prescriptions for

(Testimony of Edward William Kelly.)

narcotics for Mike Sanders, and I would ask him if he could produce Mike Sanders.

Q. Anything further?

A. No. There was nothing further then.

Q. Anything about arresting or not arresting the doctor?

A. There was nothing said about arresting him at all.

Q. Was anything said about mentioning or talking about arresting him? [16]

A. To threaten him with arrest.

Q. Who suggested that?

A. I don't remember who, but I think it must have been Shirley.

Q. I understood you to say that Mr. Clayton said to throw a good scare into the doctor. Was there anything else said by Clayton in that connection?

A. No, sir. That is the only words he said, was to throw a scare into the doctor.

Q. In that connection?

A. In that connection.

Q. Can you tell us whether or not anyone there that night said, "Throw a good scare in the doctor, and let Shirley do the rest?"

A. Clayton.

Q. Was that at the same time you are referring to?

A. Yes, sir; that was at the same time.

Q. About what time did you and Shirley arrive at Coeur d'Alene? I mean the morning after this conversation?

(Testimony of Edward William Kelly.)

A. About an hour after I caught the bus. I think about 8 o'clock in the morning.

Q. And where did you go after you got off the bus?

A. We both went into the bus depot, me and Shirley both.

Q. Did you stay together after you left the bus depot? A. Yes, sir.

Q. Where did the two of you go? [17]

A. We went in the bus depot and sat down and had coffee.

Q. After you left the bus depot?

A. She went down to the doctor's office when she left the bus depot. That is where she told me she was going.

Q. Had you been in Coeur d'Alene before?

A. Once or twice I had been there.

Q. How long before?

A. It has been quite a while before that.

Q. Did you know where Dr. Teed's office was?

A. No, sir; I did not.

Q. Who told you where it was?

A. Shirley pointed it out to me.

Q. After Shirley went down to the doctor's office what did you do?

A. I stayed in the bus depot for a few minutes.

Q. How long?

A. About ten minutes.

Q. Then where did you go?

(Testimony of Edward William Kelly.)

A. I went from there up the street and bought a brief case in a drug store.

Q. Why did you do that?

A. She figured it would be a good idea to have a brief case with me when I went to see the doctor.

Q. You said "she" did? A. Shirley. [18]

Q. When did she tell you that?

A. At the bus depot.

Q. After you bought the brief case what did you do?

A. I went from there to the doctor's office.

Q. When you got to the doctor's office what did you find there?

A. There was a bunch of people in the reception, 6 or seven people, waiting to see him, and I sat there probably 5 or 10 minutes, and I got up and left.

Q. Was Shirley there?

A. She was in the doctor's private office.

Q. You say you got up and left?

A. I walked out. There was 6 or 7 people sitting there.

Q. Did you return later?

A. Yes, sir.

Q. And when you returned were there patients still in the office?

A. No, sir; they had left.

Q. Did you see anyone there after you entered?

A. No, sir; I think all the patients had gone when I got back.

Q. Did you see any persons at all?

(Testimony of Edward William Kelly.)

A. No, sir. The outer office was empty.

Q. What did you do?

A. I sat down and waited until Shirley came out of his office—him and Shirley came out together.

[19]

Q. After they came out will you tell us what was said and what occurred?

A. I got up out of the chair, and I told him who I was.

Q. What did you tell him?

A. I told him I was a narcotic agent.

Q. Did you use a name at that time?

A. I think I used the name W. J. Graven.

Q. Where did you get that name?

A. From Shirley.

Q. When did you get it from Shirley?

A. The night previous to this.

Q. Was Mr. Clayton there when she told you the name of the narcotic inspector?

A. Yes, sir; he was.

Q. After that what, if anything, did Shirley do?

A. While I was talking—started to talk to the doctor—she introduced me to the doctor, and told the doctor she had known Mr. Graven in Seattle.

Q. Did she use the name?

A. Yes, sir; she said "Graven".

Q. What else did she say about your business?

A. She told him who I was, a narcotic agent from Seattle?

Q. Then what occurred?

(Testimony of Edward William Kelly.)

A. She went out of the building, I guess, and I went into his private office. [20]

Q. Did you have any talk with him?

A. Yes, sir.

Q. Tell what it was.

A. I said "You are in quite a bit of trouble up here, aren't you, Doctor?", and he wanted to know what kind of trouble, and I explained to him about these narcotic prescriptions for Mike Sanders, and I asked who Mike Sanders was and where he was at, and he told me he was in Spokane, and I asked him if he could produce Mike Sanders, and he said he could.

Q. What did you say to that?

A. I said I had already talked to Mike Sanders, and Mike Sanders told me he had never received any narcotics from Dr. Teed.

Q. At any time there in that conversation did you produce or start to produce anything that you referred to as credentials?

A. No, sir; I didn't have nothing to produce.

Q. Were any credentials asked for?

A. No, sir; he never asked for credentials.

Q. What other conversation did you have with the doctor, and what did he say?

A. I told him that Mike Sanders told me he had never received any narcotics from him, and he still insisted he had wrote prescriptions for Mike Sanders, and he told me how large they were, he said about 50 grains about twice a week, [21] he thought, and I asked him how long he had been carrying this

(Testimony of Edward William Kelly.)

on, and he said since some time in January, and I asked him what was the trouble with Mike Sanders that he needed that much narcotics, and he told me, and it was then I told him that Mike Sanders said he had never received no narcotics from him.

Q. Did you say anything further what you would do about it?

A. No, sir. He asked me what I would do, and I told him I didn't know, I was going back to Spokane, and I would let him know.

Q. Was anything further said?

A. I asked him who else he had been writing prescriptions for. I told him I had been over to the drugstore, or was going to the drugstore, and was going to look, and he admitted he had wrote lots of prescriptions for different people, and he told me the bunch who he wrote for, and I don't remember, because I don't know the people.

Q. In talking about prescriptions, can you tell me whether or not you were talking about prescription for morphine or narcotics?

A. Yes, sir; morphine.

Q. Was there any further conversation there at that time?

A. No, sir. After he asked what I would do about it, I told him I didn't know; I was going to Spokane, and "I will let you know," and he said "I hope there will not be anything done about it. [22]

Q. He said that?

A. Dr. Teed said that.

(Testimony of Edward William Kelly.)

Q. Then what did you do?

A. I left his office and went down to the bus depot and bought a ticket to come back to Spokane.

Q. Did you see Shirley at Coeur d'Alene after that?

A. She came in the bus depot while I was there getting ready to leave for Spokane.

Q. Did you have any discussion with her?

A. She wanted me to wait and come back on the bus with her. She said, "I will see him, and you wait and come back with me," and I said I didn't care to stay any longer in the town, and I wanted to go, and I did.

Q. Was your meeting at the bus depot after you left Dr. Teed's office by any prearrangement?

A. No, sir; I don't think so.

Q. Can you tell us whether or not Shirley indicated to you where she was going when you said you were going back to Spokane?

A. She said she was going back up to see the doctor in regard to getting some money from him.

Q. Did you take the bus back to Spokane?

A. I took the bus then.

Q. Did you see Shirely after that that day?

A. Yes, sir; I seen her about three hours after that. [23]

Q. Did you see George Clayton?

A. I seen Clayton as soon as I got back to Spokane.

(Testimony of Edward William Kelly.)

Q. Where did you see him?

A. At Moore's Beer Parlour.

Q. Where is that?

A. On Main Avenue.

Q. Did you have any conversation with him?

A. Yes.

Q. Tell the Court and jury what that conversation was.

A. Well, he knew that I had left that morning.

Mr. Smith: I object to what he knew.

Q. Just what he said.

A. He said, "How did you come out up there?"

Q. What did you tell him?

A. I told him I didn't know; that she was still there.

Q. Was anything further said by him?

A. No.

Q. Did you see Bunny Doores around that day?

A. I seen him that day, but not right at the time I was talking with Clayton.

Q. Did you later see Shirley?

A. Yes, sir.

Q. Where did you see her?

A. She came to the same place in a taxicab. [24]

Q. The Moore beer parlor?

A. No, sir; the Turf, across the street. It was at Moore's I met Clayton, and him and me went across the street to get coffee.

Q. Did you have any arrangement to meet Shirley at the Turf? A. No, sir.

(Testimony of Edward William Kelly.)

Q. How long after you were in the Turf did she come in the taxicab?

A. I wouldn't say. I don't know how long it was, but sometime after that.

Q. Was Bunny Doores in the Turf with you and Clayton?

A. I don't remember whether he was or not at that time.

Q. Did Shirely come in the Turf?

A. Yes, sir.

Q. Did you have any discussion with her or hear any conversation between her and Clayton?

A. I had a talk with her.

Q. Was Clayton present? A. Yes, sir.

Q. Was he present within hearing?

A. I don't know. I wouldn't say whether he heard it or not. He was there.

Q. Where did the talk take place?

A. At the lunch counter.

Q. Can you tell us whether or not you and Shirley were [25] separated from Clayton?

A. No, sir. The three of us were sitting right there at the lunch counter.

Q. Tell us the conversation.

A. I asked her how she come out up there, and she said, "Not so good," she said, "I only got \$200." She said, "I got that in a check," and I told her to go and cash the check, and she said she didn't care to cash the check herself, and she was going to get somebody else to cash it for her, and I said, "Well, I am going on up to my room,

(Testimony of Edward William Kelly.)

and when you get the money you can bring it up there."

Q. Is that all that was said, or do you recall anything else?

A. Instead of going to the room, she said to wait a few minutes and she would be back, and she said, "It may be we can go out to the house," meaning herself and me and Bunny.

Q. Was Bunny there at that time?

A. He came in before that time.

Q. Did Shirley give you any money at the Turf?

A. No, sir; she didn't give me anything at the Turf.

Q. Can you tell us whether anything was said by you as to the amount she had received?

A. Yes, sir, I said that didn't appear to be enough, but she said that was all he had given her, was \$300, as all his money was tied up in a road house at Coeur d'Alene. [26]

Q. Did you go to her house after that?

A. Yes, sir.

Q. Who was there?

A. No one was there. Me and her and Bunny went out in the cab, and she opened the door and the three of us went in the house together.

Q. What occurred when you got to the house?

A. When we got to the house she had the \$300 in cash by that time.

Q. What did she do with it?

A. She gave me \$100 and gave Bunny \$100 and took \$100 herself.

(Testimony of Edward William Kelly.)

Q. Was that all the money you saw, was \$300 in cash?

A. I didn't even see the \$300 in cash; she handed me five 20-dollar bills.

Q. And she handed the same thing to Bunny.

A. Yes, sir; I think so.

Q. Then what occurred?

A. We stayed around the house a while and some fellow came out and moved the furniture in or out while I was there.

Q. After you left do you recall where you went?

A. I didn't leave for quite a while. I came downtown with Clayton. He came while I was there.

Q. And you say you came back downtown with him?

A. Yes, sir.

Q. Did you see Shirley after that at any time? I mean not [27] that day, but at a latter date?

A. I seen her—I didn't see her from that day until Thursday.

The Court: That was on Monday?

A. It was Monday when the first transaction took place.

Q. (Mr. Connelly): And where did you see her on the next occasion?

A. She came to my room at the Galax Hotel.

Q. What did she say then?

A. She said she got \$300 more from the doctor, and she gave me \$100 then.

(Testimony of Edward William Kelly.)

Q. Did you have occasion to go to Coeur d'Alene after that? A. Yes, sir; I did.

Q. When was that?

A. It was about a month after that, or more than a month.

Q. Did you have a conversation with Dr. Teed at that time? A. I did.

Q. Will you tell us what that conversation was?

A. Her brother told me she had got a lot more money from this doctor than she told us, and I asked how he knowed, and he wouldn't tell me, and I said, "The best thing to do is to go up and see Dr. Teed again and find out for ourselves," and me and him went up together, and I went up and talked with Dr. Teed.

Q. What was the conversation?

A. I asked him how much money he had given Shirley Doores. [28]

Q. What did he tell you?

A. He told me he had given her quite a lot of money. He said, "I have given her nearly \$14,000."

Q. That was on what date?

A. I think it was about the 15th or 16th of May, I visited him.

Q. Prior to that time and after the time she gave you the \$100 at the Galax Hotel, did you see Shirley again?

A. Yes, sir. I seen her around town.

(Testimony of Edward William Kelly.)

Q. Did you have any further talks with her about money? A. No, sir.

Q. Did you see George Clayton?

A. Yes, sir; every day.

Q. Did you have any talk with him about this matter?

A. I didn't until after I had seen Dr. Teed, and I came back down from Coeur d'Alene. I didn't talk with either of them in regard to money.

Q. I will ask you whether or not you were in the vicinity of the Pedicord Hotel with Shirley Doores at any time?

A. Never in my life.

Q. After you talked with Dr. Teed did you do anything further or have any talk with him or get anything from him? On that particular occasion?

A. On that day I didn't get anything from him, no, sir.

Q. Did you see him later? [29]

A. Yes, sir.

Q. How much later? A. The next day.

Q. Were you alone or were you accompanied by someone? A. Bunny was with me.

Q. What was your conversation with Dr. Teed at that time?

A. I went back up to his office and talked some more in regard to how much money he had given her, and I asked him if he wasn't mistaken about the amount, and he said no, he knew what he had given her, and I told him all she had given me,

(Testimony of Edward William Kelly.)

and he said, "It looks like I have been shook down for my money," and I told him I didn't know what she and him had done, or how they had changed this money from him to her, and he started to explain it to me, and I told him there was no use explaining it to me because I had only got \$200 out of it, and that I was going to Spokane and see her and straighten it up.

Q. Did you see him again after that?

A. I got \$125 or \$150 from him that day.

Q. How did you get that?

A. I told him that there was a couple more narcotic agents that had been there that were going up to check them drug stores, and if he had any prescriptions in the drug stores they would pick them up, and I said I would see [30] they didn't come up if he would give me \$250, and he told me he didn't have \$250 in his pocket at that time, but he gave me \$125 or \$150, I don't remember which.

Q. And what about the balance?

A. He was to meet me at Spokane.

Q. Did he meet you? A. He did.

Q. Where?

A. In front of the Milwaukee Depot.

Q. Was that by arrangement?

A. Yes, sir.

Q. Did you get any more money from the doctor then?

A. He gave me \$145 at that time.

Q. How did he happen to give you \$145?

(Testimony of Edward William Kelly.)

A. When he gave me this \$125 I told him I figured he had caused me \$20 worth of trouble extra running back and forth to see him, and he admitted he had, and he gave me another \$20 bill he had in his hand.

Q. Did you talk with Shirley after you talked with the doctor?

A. Yes, sir. I talked with Shirley on about the 15th of May.

Q. Where did you talk with her?

A. At her home.

Q. Was Clayton there?

A. Clayton, myself and Bunny.

Q. Tell us that conversation? [31]

A. We went to the house, me and Bunny, and she was doing something around there, and Bunny asked her if she had any money—that is the way we first opened the conversation—and she said, “Where would I get any money,” and he said, “You must have some money. I just came from the doctor, and he said he had given you about \$14,000,” and she called George Clayton in. He was in the backyard doing something, and she called him in, and told him what we had told her, she had got more money, and he said, “I don’t know how much money she got.”

Q. Whom did he say that to?

A. I imagine he said it to Bunny and me both.

Q. Was anything further said?

A. No, sir. She said \$600 was all the money

(Testimony of Edward William Kelly.)

she got, and "that is all you fellow will get. You have got all you have coming."

Q. Did you leave?

A. Yes, sir. We left.

Q. Did you have occasion to see Dr. Teed after that?

A. Yes, sir.

Q. Did you see Shirley before you saw Dr. Teed again?

A. Yes, sir.

Q. Where did you see her?

A. At her home.

Q. What conversation did you have with her at that time? [32]

A. I told her I heard we were all going to be arrested that day.

Q. Was Clayton there?

A. Yes, sir; and I told him also.

Q. What did they say?

A. They couldn't believe it. They wanted to know where I found it out, and I told them, and he suggested to Shirley we get in the car and go up to see Dr. Teed and find out if he had told the authorities, and she agreed to do it.

Q. Did she got with you?

A. Yes, sir; we went to Coeur d'Alene.

Q. How did you get there?

A. We drove up in her car.

Q. Where did you leave Mr. Clayton?

A. Out at the house.

Q. Was Bunny there?

A. No, sir.

Q. When you got there did you see Dr. Teed?

(Testimony of Edward William Kelly.)

A. She went up and seen him.

Q. Did you talk with him?

A. I started to talk with him, but I didn't have very much time. The sheriff came in and arrested me.

Q. How long were you in the office?

A. I was there about three minutes.

Q. How long was she there? [33]

A. She was there an hour and a half or two hours.

Q. She went to the office of the doctor without you? A. Yes, sir.

Q. Where did you remain while she was in the office?

A. On the street in the car.

Q. How did you go up?

A. She called me.

Q. Did you have any conversation with her or the doctor while you were there?

A. Yes, sir.

Q. What was it?

A. He told me he thought he was mistaken about the amount of money he had given Shirley. He said, "I guess I made a mistake." He said, "I think it was \$300 and not \$13,000."

Q. What did you say?

A. I didn't have time to say nothing. By that time the sheriff came in and arrested me.

Q. And he arrest you in the doctor's office?

A. Yes, sir.

Q. And you have been in jail ever since?

(Testimony of Edward William Kelly.)

A. Yes, sir; ever since.

Q. I believe you pled guilty to the charges against you in this indictment?

A. I have.

Q. You have not been sentenced? [34]

A. No, sir; I have not been sentenced.

Q. I will ask you whether or not you ever were intimate or associated with George Clayton prior to any of these transactions around the city here?

A. Oh, yes.

Q. State whether or not you ever went to a bank where he cashed checks?

A. Yes, sir. I went to a bank with him one time.

Q. Do you know where he worked during any of that time? A. Yes, sir.

Q. Where?

A. At Moore's tavern on Main Avenue.

Q. Doing what?

A. He claimed he was manager of the pool hall part of it.

Mr. Connelly: You may cross examine.

Cross Examination

By Mr. Smith:

Q. As I understand it, you came to Spokane in July, 1943? A. Yes, sir.

Q. And you have been in jail since your arrest about the 27th of May, of this year?

A. The 25th of May.

(Testimony of Edward William Kelly.)

Q. Between July and May you had no occupation? A. No.

Q. You mentioned something about being a bartender? [35] A. Yes, sir.

Q. But you did not follow tending bar in Spokane?

A. No, sir; not while I was in Spokane.

Q. Did you have any steady employment any place?

A. I wouldn't call it employment. I was working, but I wouldn't call it employment.

Q. Your principal occupation since you have been here was playing cards?

A. That is right.

A. And is that the occupation you followed for some years?

A. No, sir. I haven't followed it for many years.

Q. How many years?

A. Maybe two years.

Q. Have you any regular occupation outside of bar tending? A. No, sir.

Q. Have you ever been convicted of a felony before this time?

A. I don't know whether it was a felony or not. It would be a matter of record. I was convicted of a liquor case in North Dakota in 1934, but I don't know whether it was a felony or not. The District Attorney would know.

Q. Were you sentenced to a term of imprisonment in a penal institution?

(Testimony of Edward William Kelly.)

A. No, sir. I was sent to the county jail.

Q. When you came to Spokane did you go to work at Moore's Card Room? [36] A. I did.

Q. Playing cards there? A. Yes, sir.

Q. And that was where you became acquainted with George Clayton?

A. That is right. In Moore's card room.

Q. Do you remember who introduced you to him? A. No, sir. I don't remember now.

Q. And you say George Clayton had the title of manager of the card room?

A. That is what I imagine it would be, yes, sir.

Q. And the pool room, pool and cards—it is one of those regular working men's clubs on Trent and Main? A. Yes, sir.

Q. When was it that you went to the bank with Clayton?

A. I only went to the bank one time in my life with Clayton.

Q. When was that?

A. It was in May—April, I mean. Last year.

Q. When in April?

A. I couldn't give you the time, because I don't know. It was sometime between the 10th and 15th of April.

The Court: You said last year; April of last year.

A. April of this year, I meant.

Q. You mean last spring?

A. That is right. [37]

(Testimony of Edward William Kelly.)

Q. And you say on that occasion he cashed some checks? A. He did.

Q. Were they in a substantial amount?

A. I don't remember the amount. I think it was \$100 or \$200.

Q. What bank did he go to?

A. I don't know one bank from the other in Spokane.

Q. Where was it located?

A. On Riverside.

Q. Do you know the Old National Bank Building, the tallest building?

A. The bank he went to was on the north side of the street, on Riverside, down quite a ways.

Q. Did you have to go up steps to get there, to the bank proper?

A. I don't remember. It doesn't seem that we did.

Q. Did you go with Mr. Clayton to the bank at his request?

A. I don't think he requested me to go to the bank. I was standing there when he started and walked along with him.

Q. Was that before or after you and Shirley had been to Coeur d'Alene?

A. That was after.

Q. And you walked along with him up to the bank and did you return to Moore's with him?

A. No, sir. He went from there to another bank and I went with him. We went east up the street to another bank. [38] The other bank was

(Testimony of Edward William Kelly.)

east. I went in the bank with him but he went downstairs. I think there was some stairs he went down.

Q. And you waited there for him?

A. I waited in the lobby.

Q. And you went back to Moore's with him?

A. Yes, sir; that is right.

Q. And you think that was after you had been to Coeur d'Alene?

A. I know it was after.

Q. The 10th of April?

A. Yes, sir.

Q. How many times had you been out to Clayton's house on East Carlisle before the 10th of April?

A. Quite a number of times.

Q. Who had you been out there with?

A. I had been out there with Clayton and Bunny.

Q. You are referring to Bunny Doores, Shirley's brother?

A. That is right.

Q. And you have gone out there with Bunny on the bus?

A. Yes, sir.

Q. Had you ever taken a meal at the house?

A. Yes, sir. I had had several meals there.

Q. And at that time you were employed at Moore's; the same place George Clayton was?

A. That is right. [39]

Q. That discussion that took place was on Sunday the 9th of April?

A. That is right.

Q. The matter was brought up by Shirley?

A. That is right.

Q. What time of day was this?

(Testimony of Edward William Kelly.)

A. About 4:00 or 5:00 o'clock. It was between 4:00 and 5:00.

Q. Was it daylight or dark? A. Daylight.

Q. What room in the house were you in?

A. In the front room.

Q. The living room?

A. That is what I would call it. The first room you come into in the house.

Q. Were all of you present in the room?

A. Yes, sir.

Q. Bunny, Shirley and George Clayton and yourself? A. Yes, sir.

Q. Shirley brought up this matter about some doctor at Coeur d'Alene? A. Yes, sir.

Q. And Shirley spoke about the fact he would be an easy guy to get some money out of?

A. That is right.

Q. And you and Bunny were both sitting there and heard it? [40] A. Yes, sir.

Q. And Shirley mentioned the fact that you could impersonate a federal officer or narcotic agent?

A. She didn't say I could. She asked if I would.

Q. Shirley asked you if you would?

A. Yes, sir.

Q. Nothing was said about credentials there, was there? A. Not a word.

Q. Nothing was said about your having some papers or something, just anything that would do to cause the doctor to be so scared he wouldn't ask for any credentials?

(Testimony of Edward William Kelly.)

A. Not that I remember of.

Q. No conversation like that?

A. I don't remember any conversation in regard to credentials.

Q. And you suggested that Bunny should take the role? A. Yes, sir.

Q. And you say it was George Clayton who said Dr. Teed knew Bunny and he wouldn't do?

A. He said he thought he knew Bunny.

Q. Bunny at this time and for a long time before to your personal knowledge had been using narcotics? A. I never seen him do it.

Q. You knew he was a user?

A. All I knew what was, I had heard.

Mr. Connelly: I object to that as hearsay and not [41] proper cross examination.

The Court: The objection is overruled.

Q. Shirley mentioned the name of Dr. Teed in that conversation? A. She did.

Q. And Shirley mentioned Mike Sanders?

A. Yes, sir.

Q. And said Dr. Teed had been writing prescriptions for Mike Sanders, who was a non-existent person? A. Yes, sir.

Q. What time did you leave there?

A. About 12:00 o'clock that night.

Q. Was there any drinking going on?

A. No.

Q. How did you get from the house down town?

A. Clayton and Shirley drove me down in the car that night. I rode down with them.

(Testimony of Edward William Kelly.)

Q. What hotel were you staying at at that time?

A. The Galax.

Q. They left you there?

A. No; they went to Bunny's hotel first.

Q. You were with them? A. Yes, sir.

Q. And then where did you go?

A. After that they dropped me off on Riverside and I went [42] and got a cup of coffee and a sandwich and went to bed.

Q. Who called you next day to go to Coeur d'Alene? A. What do you mean?

Q. Who notified you?

A. The clerk at the hotel called me.

Q. He called you and said you had a 'phone call?

A. No. I agreed to get up and catch the bus that morning at 7:00 o'clock.

Q. You told Shirley the night before you would catch the 7:00 o'clock bus?

A. We had agreed to meet each other.

Q. And that agreement was with Shirley?

A. Yes, sir.

Q. And you did meet her and went to Coeur d'Alene? A. That is right.

Q. And all of these transactions took place you have testified to? A. Yes, sir.

Q. After you returned from Coeur d'Alene you went over to Moore's, did you not?

A. Yes, sir.

Q. And Clayton was there working?

A. He had just gotten there. I don't know what

(Testimony of Edward William Kelly.)

he was doing. He had his hat and coat on. I remember that.

Q. And he said "How did you come out?" [43]

A. Yes, sir.

Q. And you said "I don't know"?

A. Yes, sir.

Q. And that was all the conversation you had?

A. No, sir; we went across the street and had some coffee and waited for her.

Q. And she came? A. Yes, sir.

Q. How long was it before she came?

A. I don't remember that.

Q. And you and she had a conversation together at the counter? A. Yes, sir.

Q. On direct examination you were not sure that Clayton heard what was said or not.

A. I don't know whether he heard it or not.

Q. This is quite a large place and was pretty well patronized, was it not? A. Yes, sir.

Q. Quite a little noise?

A. I don't know about that.

Q. At any rate, you went up to—Where did you get the \$100 from?

A. Out at the house that day.

Q. When you and she and Bunny were there?

A. Yes, sir.

Q. And you saw her hand Bunny \$100? [44]

A. I don't know whether it was \$100. I seen her hand Bunny some bills. It was supposed to be \$100.

(Testimony of Edward William Kelly.)

Q. And you got \$100? A. I got \$100.

Q. How long were you there that day?

A. Oh, I was there a couple of hours.

Q. What were you doing all that time?

A. Just sitting there talking, me and Shirley and Bunny.

Q. What were you talking about?

A. About this transaction that had taken place at Coeur d'Alene.

Q. Clayton wasn't there?

A. He came in while we were talking. He came in while we were there.

Q. How long did you stay after Clayton came?

A. I didn't stay long. I rode back down with him.

Q. Do you know what he came for?

A. It was his home, and he just came.

Q. Shirley came to your room at the Galax Hotel on Thursday afternoon and gave you another \$100? A. That is right.

Q. Bunny told you his sister had gotten a lot more money out of Dr. Teed than she had stated to you? A. That is right.

Q. And that is when you talked with Dr. Teed?

A. That is right. [45]

Q. And Bunny went with you?

A. Yes, sir.

Q. And he was with you when you talked to Dr. Teed?

A. No, sir. He stayed out in the street.

(Testimony of Edward William Kelly.)

Q. Were you still posing as Mr. Graven, the federal narcotic agent?

A. I didn't pose as anybody. He took my word for it then, I suppose. I had met him before and there was nothing that made him believe any different.

Q. Was he talking to you as though he still believed you were a federal narcotic agent?

A. Yes, sir.

Q. At any rate, he gave you another \$150?

A. Yes, sir.

Q. After you told him you had a couple of more boys to fix up?

A. Yes, sir.

Q. They were coming up to check up prescriptions?

A. That is right.

Q. When you went to the house and told Shirley what you had found out, or what Dr. Teed had said, Clayton was out in the back yard?

A. He was, yes.

Q. And she called him in?

A. Yes, sir.

Q. And what was it he said? [46]

A. She told him what me and Bunny just told her about this doctor giving her more money, and she said "What do you think about it?" and he said "I don't know how much money you got."

Q. And he said "I don't know anything about this deal"?

A. No, sir; he didn't say that.

Q. He said "I don't know how much money you got"?

A. That is the only words he said.

(Testimony of Edward William Kelly.)

Mr. Smith: That is all.

(Witness excused.)

WESLEY DOORES

called as a witness by the Plaintiff, first duly sworn, testified as follows:

Direct Examination

By Mr. Connelly:

Q. Will you state your name, please.

A. Wesley Doores.

Q. And you have the nick-name of Bunny?

A. Yes, sir.

Q. That people sometimes call you?

A. Yes, sir.

Q. Where do you live?

A. I am staying at the Pacific Hotel right now.

Q. Where do you work?

A. At the Trentwood Aluminum Company.

Q. How long have you live in Spokane? [47]

A. Off and on since 1936.

Q. When did you come here the last time?

A. It was in October, a year ago.

Q. In 1943? A. 1943.

Q. Are you a brother of Shirley Doores?

A. I am.

Q. Are you acquainted with George Clayton?

A. I am.

Q. How long have you known George Clayton?

A. Oh, I believe about six years.

(Testimony of Wesley Doores.)

Q. You have been convicted of a crime?

A. I have.

Q. And are on parole at the present time?

A. I am on parole, yes, sir.

Q. When did you leave the institution and go on parole?

A. I believe it was about July 28th or 29th, 1943.

Q. That was the Walla Walla State Penitentiary? A. Yes, sir.

Q. When you left there did you come immediately to Spokane or later?

A. I came later. I worked for a while for Morris and Knudsen first.

Q. Where did you go to live first.

A. To 7225 East Carlisle.

Q. Who else lived there? [48]

A. George Clayton and my sister.

Q. Directing your attention to either the latter part of December of last year, or the first part of January of this year, I will ask you to state whether or not you had any conversation with George Clayton about a doctor up in Couer d'Alene?

A. I did.

Q. Do you know about when that was?

A. I would say along about the first part of January.

Q. What was that conversation, what did George Clayton say to you and what did you say to him?

A. Well, as near as I can remember, why I was talking to him at the house one day, and he told

(Testimony of Wesley Doores.)

me—he asked me if I knew Dr. Teed at Cour d’Alene, and I told him I didn’t know him, but I knew of him. And he said, “Shirley has been getting narcotics off him, and Dr. Teed can be taken for a little money, if I could get some one to impersonate a federal man,” and he asked if I would impersonate a federal man, and I told him I was on parole and I didn’t want anything to do with it.

Q. Did you have any further conversation with him along the same line or about the same subject, either then or later?

A. Along about the latter part of January, I would say, it could have been earlier or later—I don’t remember the exact date—I was asleep at the house one night when a [49] fellow knocked on the door about 2:00 o’clock in the morning, and called George outside, and talked with him quite a while, and he came back in and asked at that time if I knew where he could get a federal badge or credentials; that he had someone that wanted to go on the Couer d’Alene job he wanted me to go on, and I told him I didn’t know where he could get any.

Q. Did you have any further conversation with Mr. Clayton at the house or down town with reference to the same subject?

A. Later on, I would say three or four weeks, maybe earlier, I was playing cards in Moore’s Tavern one night when a fellow came in and watched the game for awhile, and went out, and George told me at the time that was the fellow that wanted to

(Testimony of Wesley Doores.)

go on the job at Coeur d'Alene, but he had backed out because he couldn't get any credentials for him.

Q. Are you acquainted with Ed Kelly?

A. I am.

Q. How long have you known Ed Kelly?

A. Oh, I have known Kelly since I came to Spokane last October, a year ago.

Q. Have you been fairly intimate with him?

A. Fairly, yes.

Q. Now, I will ask you whether or not you saw Ed Kelly on April 9th of this year? [50]

A. I did.

Q. Where did you see him?

A. Well, George picked Kelly and I up in front of the Turf Cafe or pool room, whatever you would call it, and drove us out to the house for dinner.

Q. On April 9th?

A. Either April 9th or 10th. I couldn't be sure of the date.

Q. Who else was at the house besides you and George Clayton and Kelly?

A. My sister Shirley was there.

Q. When you say "George," do you mean the defendant, George Clayton? A. Yes, sir.

Q. Tell us anything that George Clayton said out there with reference to this doctor at Coeur d'Alene during that evening at any time.

A. Well, after dinner out there, we was talking, and George said he had a good score at Coeur d'Alene if he could get one of us to go on it, and

(Testimony of Wesley Doores.)

Kelly asked what it was, and George Clayton explained that Shirley had been getting prescriptions from Dr. Teed at Coeur d'Alene, and he had been writing them in a fictitious name, and if some one would impersonate a federal man he could take the doc for some money, and he wanted me to go over and I wouldn't go, and Kelly asked what he thought the doc would come up with, and he told him oh, \$800 or \$1000, somewhere [51] around there, I don't remember the exact amount, and Kelly asked him if he thought there would be any trouble, and George told him no, there wouldn't be any, and so Kelly agreed to go over there.

Q. What, if anything, was said by any of you as to how this transaction would be carried out and who said it, as you recall?

A. George went on to explain to Kelly at the same time after Kelly consented to go, he would drive him over, and Shirley was to go up to the doc's office and Kelly would come in a few minutes later, and Shirley would see Kelly and tell the doc that was a federal man in the waiting room.

Q. Was any name for the federal man used?

A. Graven, Mr. Graven, and that Kelly was supposed to tell the doc his name was Graven, and he was over there to check narcotic prescriptions, and it was pretty bad for the doc.

Q. Was your sister present at this conversation?

A. Yes, sir.

Q. Can you tell us whether or not the name Mike Sanders was used there?

A. That was one of the fictitious names she used.

(Testimony of Wesley Doores.)

Q. What?

A. That was one of the fictitious names the doctor had used in writing prescriptions. [52]

Q. Did your sister talk about that name that night?

A. George and Shirley both talked about it.

Q. What was said about how much money they expected to get out of this man?

A. Then George said he thought the doc could be taken for \$800 or \$1000.

Q. Who asked him about that?

A. Kelly did.

Q. Was there anything further said there that you can recall at this time?

A. George said he would drive them over next morning, but after talking about it he decided against driving them over. He said, "If there should be any trouble over there I wouldn't want my car to be seen over there."

Q. What arrangement, if any, was made about how anyone would get there?

A. So it was decided that they would catch the bus next morning, the first bus.

Q. Who was to go? A. Shirley and Kelly.

Q. Now do you know of anything else that was said there, about whether you were to take part in it?

A. At the same time when he explained to Kelly how it should be done, that Shirley would come back to the doc's office and tell the doc she would call Mike Sanders, and George [53] would be on

(Testimony of Wesley Doores.)

the 'phone at the Halliday Hotel to receive the call, but it was early in the morning, and he asked if I would answer the 'phone, which I did—I agreed to answer it.

Q. At the Halliday Hotel? A. Yes, sir.

Q. What 'phone call were you to answer?

A. A long distance call from the doc's office at Coeur d'Alene.

Q. Was that discussed that evening of the 9th, or at some later time?

A. That was discussed all at the same time.

Q. Now was there anything further said that night about this proposition?

A. Not that I recall right now.

Q. Did you stay out there that night?

A. No, sir. George drove Kelly and I back to town.

Q. George Clayton?

A. Yes, sir. I was staying at the St. Clair Hotel.

Q. Do you know where Kelly lived at that time?

A. I believe Kelly lived at the Galax, but he was still in the car when I left it.

Q. What, if anything, did you do the following morning early?

A. The following morning I got up around 6:30 and went out to Shirley's house and woke her up so she could catch the [54] bus, which she wanted me to do.

Q. Was there a telephone at your sister's house?

A. No, sir. And she got up and caught the bus

(Testimony of Wesley Doores.)

and George told her he would wait until she came back.

Q. Did you see either Kelly, your sister, or George Clayton later that day, the day you woke your sister up to get the bus?

A. After I came back to town I got the telephone call from Shirley about 11:30. About 1:00 or 1:30 I met Kelly at the Turf Cafe, and Kelly said he had got the early morning bus and went over and he had seen the doc, and during that time George came in, and he said everything had worked out as planned.

Q. Who told that to whom?

A. Kelly told it to George; that everything had worked out the way it was planned.

Q. What, if anything, was said about Shirley, your sister?

A. Kelly told George and I at that time he had got the first bus back from Coeur d'Alene, and had left Shirley over there, and she would be over later.

Q. At any time that afternoon did you see your sister?

A. Well, the three of us was back in the Turf about 4:00 o'clock, 3:00 or 4:00 or 5:00, somewhere along there, and Shirley drove up in a cab, and George went out and talked with her on the street a while, and then he came in [55] and he said the doc didn't come up with as much money as they thought he would, and he only gave her \$300.

Mr. Smith: Whom do you mean by "he"?

A. George Clayton.

(Testimony of Wesley Doores.)

Q. Did your sister come in?

A. She came on in then and talked to Kelly alone. She came in with George and talked to Kelly.

Q. How is that?

A. She and George came in the cafe and talked to Kelly about it.

Q. Did she say how much money she got?

A. She said she only got \$300.

Q. How long did you all stay there at the Turf at that time?

A. Oh, we stayed there—At that time?

Q. Yes.

A. Well, we left right after that. We got in the cab and went to her house.

Q. How many of you?

A. Shirley, Kelly and myself.

Q. Where did George Clayton go?

A. He went across the street to the card game he was running.

Q. After you got to the house was anything said further about this money?

A. She told us she only got \$300, and she gave me \$80 and gave Kelly \$100 of it.

Q. Did Kelly say anything about the amount of money she had [56] gotten?

A. He didn't say anything then, no.

Q. How long did you stay at the house?

A. Kelly left and came back to town, and I stayed later and George came about 9:00 o'clock and asked for some money and she gave him some, and I rode to town with Clayton.

(Testimony of Wesley Doores.)

Q. Did you have any conversation with him on the way down town?

A. He told me Shirley was going back next day to see the doc and if the doc gave her any more money he would give me some more.

The Court: What had you done to cut in on this?

A. All I had done was to answer the telephone at the Halliday Hotel. George was sick and he couldn't go.

The Court: Is that what you got the \$80 for?

A. Yes, sir.

Q. (Mr. Connelly): What was the telephone conversation you just referred to?

A. She asked me over the telephone if the federal man had talked to me, and I told her he had, and I didn't know the doc, and never got any narcotics from him, and I didn't want any part of it.

Q. How did you get that 'phone call—by what name? A. Mike Sanders.

Q. And where did you take the call? [57]

A. At the Halliday Hotel, in the hotel telephone booth.

Q. Were you in a room or in the lobby?

A. In the lobby.

Q. Who notified you there was a telephone call for you? A. The desk clerk.

Q. And what name did you use?

A. Mike Sanders.

Q. Did you have occasion to see George Clayton after that at any time?

(Testimony of Wesley Doores.)

A. Well, after that George and Shirley drove by my apartment one evening.

Mr. Smith: I would like to have the date.

Q. About what time was it?

A. I would say it was around the 20th or 23rd, somewhere around there.

Q. And what was your conversation then and with whom?

A. I believe it was Kelly that was with me. I couldn't be sure whether it was Kelly or not, but I believe it was, and George told me on the way down—George and Kelly said they had an appointment to see a party at the Pedicord Hotel, and we stopped there. They went inside and stayed around an hour. I don't know who they seen. And when they came back out I asked Shirley to loan me \$100, that I needed it, and she said she would in a day or so.

Q. What did Clayton say? [58]

A. He didn't say anything right at that time.

Q. Did he later? I mean with reference to money. Did he say anything later that day?

A. They said they would have some money in a day or two.

Q. Who said that?

A. Shirley said it and George also said it.

Q. Did you have occasion to see Clayton and your sister or either of them at the house any day after that?

A. Oh, I went out there a day or two later. I don't remember the date, but a couple of days after

(Testimony of Wesley Doores.)

that, and I went out to get the \$100, and George flashed his billfold and he had quite a few hundred dollars in the billfold, and he loaned me the \$100 before I left.

Q. What, if anything, was said about anything else at that time by Clayton?

A. Not that I remember right then.

Q. What, if anything, was said about the money he had on him? A. That he had?

Q. Where he got it or where it came from?

A. He didn't say where he had gotten it then.

Q. To refresh your recollection, I will ask you whether or not Clayton said anything about some little white tablets?

Mr. Smith: I object to counsel refreshing his recollection. He is doing very well.

Mr. Connelly: I object to counsel's statement that he [59] is doing very well.

The Court: I will overrule the objection.

Q. (Mr. Connelly): Did you hear the question?

A. I didn't get the last of it.

Q. I asked you whether or not Clayton made any reference to or mention of little white tablets at that time?

A. He flashed his billfold, and he said, "That ain't all I have got. I have some of the little white tablets." He always referred to narcotics as little white tablets.

Q. Now, at any time after that, any day after that, did you have occasion to see your sister and Mr. Clayton again?

(Testimony of Wesley Doores.)

A. Oh, I was out there two or three days later.

Q. As to whether or not either of them was going anywhere or stated they were going anywhere. Do you have any recollection of anything that was said?

A. I was there three or four days later and Shirley was getting ready to go some place, and I asked her where she was going, and she said George was going to drive her over to Coeur d'Alene to see the doc.

Q. Do you know whether or not they left the house at that time?

A. I asked George to drive up town, and he said he couldn't because he was going to drive Shirley to Coeur d'Alene, and they left in the car. I don't know where they went.

Q. Directing your attention to a couple of weeks after that, [60] did you have any conversation with Clayton and your sister with reference to money?

A. I was there almost every day, but this was a couple of days later. I would say around the first of May, and it could have been earlier or later, George was getting ready to go to Pasco, and he showed me what was \$6000, and he said he was going down there to buy a gambling joint.

Q. Do you know whether or not he left Spokane to go somewhere?

A. Him and a fellow named Sam Lavin left. They said they were going there.

Q. Did he say where he was going?

A. To Pasco, Washington.

(Testimony of Wesley Doores.)

Q. Did you see them after that or when they returned?

A. Oh, around two or three days later I was there when they came back.

Q. What, if anything, was said about buying a gambling place at that time?

A. Shirley asked if he got the place and George said he didn't.

Q. And what did Shirley say?

A. She asked for the money back, and George gave her some money and he said he was going to keep the rest and pay the mortgage off on the house or the garage.

Q. He gave her some money? [61]

A. Yes, sir. I don't know how much it was.

Q. Where did he take it from?

A. He had the money in his pocket.

Q. Was it currency or checks?

A. Currency—\$100 bills.

Q. Did you have occasion to see either of them at the house after that? A. Well——

Q. Either Clayton or your sister?

A. Oh, I was out there. It could have been the next two or three days; I was there nearly every day. George drove in and said to hurry up and get in and he would drive her over to Coeur d'Alene.

Q. Did either of them say why they were going there? A. No, sir.

Q. Did they leave at that time?

A. Yes, sir. They left in the car. I don't know whether they left town or not.

(Testimony of Wesley Doores.)

Q. Either at that time or afterwards, or around that time, will you tell us whether or not you had any conversation with Kelly about this transaction and about the amount of money that was involved?

A. I would say it was around the 17th or 18th of May, Kelly came to my place, and he told me "I think they got more money out of the doc than they said they got," and he [62] said, "They have been flashing money around town, and I know George didn't make it gambling," and he said he was going over to Coeur d'Alene to see the doc and find out what the doc had paid, and the next day he did get on the bus and go over.

Q. Did you go with him?

A. I went over with him.

Q. Did you go in the doctor's office?

A. No, sir.

Q. Where did you say?

A. I sat in the Sugar Bowl Cafe and had a cup of coffee while he was at the doc's office.

Q. Did you see Kelly again?

A. Kelly came back down and he said the doc told him he had paid Shirley \$14,000, and he said, "I know that George and Shirley got that much, and I am going back and demand my part of it."

Q. Did you come back to Spokane then?

A. We caught the bus back to Spokane and stopped at George's house on the way back.

Q. Were you with him? A. Yes, sir.

Q. Was there any conversation there between your sister and Kelly and Clayton?

(Testimony of Wesley Doores.)

A. Kelly told Shirley and Clayton what the doc said, and [63] George was mad and she was also, and Kelly told them if they didn't come through with his part of it he would put the finger on him, and George said to go ahead and put the finger on him.

Mr. Smith: George said go ahead and put the finger on him?

A. Yes, sir. He could do the time if Kelly could do it.

Q. What did your sister say?

A. She didn't say much.

Q. What was said, if anything, by anybody about going back to the doctor to prove the truth of Kelly's statements?

A. Kelly wanted her and him to drive over and Kelly would prove to her by the doc what he paid them.

Q. What did you say? I didn't understand you.

A. Kelly wanted George to drive him and Shirley to Coeur d'Alene, so he could prove to Shirley what the doc paid her, and George wouldn't do it.

Q. Did your sister agree to go? A. No.

Q. Did you have any further conversation with Clayton by 'phone or otherwise after that?

A. Oh, it was a day or two later George called on the 'phone and he said, "You and that other rat"—meaning Kelly—"better keep your mouth shut" and he said, "If you know what is healthy for you you had better get out of town, [64] or I

(Testimony of Wesley Doores.)

will bury you at Walla Walla. You know you are on parole and it wouldn't be hard for me to do."

Q. What else was said? Anything about any money?

A. He said, "You know I have got the money to do it with."

Q. Later did you learn that some policemen were looking for you?

A. Later I learned the authorities were looking for me and I left town.

Q. Where did you go?

A. To Montana. I was arrested at Bozeman, or this side of Bozeman, at a little town called Manhattan.

Q. Will you tell the jury whether or not you got any morphine from Dr. Teed on any trip you went over there on?

A. I never received no morphine on none of those trips.

Q. Did you at any time get any from Dr. Teed?

A. I went over about the 17th or 18th.

Q. Of what month?

A. Of May. I did get some morphine from him.

Mr. Connelly: You may cross examine.

Cross Examination

By Mr. Smith:

Q. Of what felony were you convicted?

Mr. Connelly: I object as being incompetent, irrelevant and immaterial. [65]

The Court: I will sustain the objection. There is only one question I will permit.

(Testimony of Wesley Doores.)

Mr. Smith: I do not know what it was, so I cannot safely ask the question.

Q. You are on parole from the state prison at Walla Walla, and were paroled in July, 1943?

A. Yes, sir.

Q. And you worked for a time for Morris & Knudsen?

A. Yes, sir.

Q. Where did you work?

A. At Hapt, Washington.

Q. Where is that?

A. Well, it is about thirty miles this side of Wallula, Washington.

Q. Have you a brother named Robert Doores?

A. Yes, sir.

Q. Was he working for Morris & Knudsen on that same job?

A. Not while I was there.

Q. Has he worked for Morris & Knudsen for a number of years?

A. Yes, sir, as far as I know.

Q. You did not see Robert Doores at that time?

A. No, sir. I did off and on but not out there on the job.

Q. Where was he working?

A. He was working for Morris & Knudsen somewhere in Oregon close to Pendleton, as near as I know. [66]

Q. You have mentioned your sister Shirley Doores, and I have mentioned Robert Doores. How many others were in the family?

A. There are three more—four more.

Q. What are their names?

(Testimony of Wesley Doores.)

A. Jean Doores and Ray Doores and Florence Doores. Two of them are dead.

Q. The ones you mentioned are living?

A. The ones that is living is Shirley, Jean, Robert and Russell Doores.

Q. And yourself? A. Yes, sir.

Q. How long have you been a user of narcotic drugs?

A. Oh, I used narcotics up to 1941; I would say around five years.

Q. You haven't used any narcotics since 1941?

A. One shot is all.

Q. When did you get that?

A. From Dr. Teed.

Q. The 17th or 18 of May?

A. Somewhere around there.

Q. Did Ed Kelly ever give you any narcotics he got from Dr. Teed? A. He never did.

Q. He never gave you any narcotics he got from Dr. Teed at [67] any time?

A. No, sir.

Q. During this period of time?

A. No, sir.

Q. You came back to Spokane in October?

A. Yes, sir.

Q. And you were out of a job?

A. I was, yes, sir.

Q. And broke? A. No.

Q. Did you have much money?

A. I had a little.

(Testimony of Wesley Doores.)

Q. At any rate you went out and stayed at the house on East Carlsruhe where George Clayton and your sister lived? A. Yes, sir.

Q. How long did you stay there?

A. I stayed there off and on for a couple of months.

Q. Did you pay your board and room?

A. No.

Mr. Connely: That is objected to as not being relevant, material or competent.

The Court: Overruled.

Q. Your answer is "No"?

A. I didn't pay any. I was working for Clayton.

Q. You were working at the Moore's card room?

[68]

A. Yes, sir.

Q. Were you getting a salary?

A. Five dollars a shift, every time I played in the game.

Q. When did you leave George Clayton's home and move down town?

A. Well, I don't know the exact date when I did. I never did really leave there. I used to stay out there off and on, up until April.

Q. What time in the month of January was it that George Clayton first mentioned to you that this doctor had—What was the expression you used—was a good score? A. Yes, sir.

Q. Is that the expression that Clayton used?

A. Yes, sir.

(Testimony of Wesley Doores.)

Q. What time in the month of January did he mention it to you?

A. I would say it was around the first of January sometime. I don't know the exact date.

Q. Around the first of January?

A. I would say around the first.

Q. How long after New Years day?

A. I couldn't be sure about that; maybe a week.

Q. Within the first week in January he mentioned to you about this doctor at Coeur d'Alene?

A. That would be around the first. [69]

Q. And he told you that Shirley had been getting narcotics from this doctor, and he told you she had been getting it under the fictitious name of Mike Sanders?

A. Yes, sir.

Q. And that he had been issuing her prescriptions in the name of Mike Sanders for some time?

A. Something like that.

Q. This conversation was the first week in January?

A. He said that she had been getting narcotics from him?

Q. That she had been getting narcotics from him and he had issued prescriptions and gave them to her?

A. Yes, sir.

Q. In the name of Mike Sanders?

A. Yes, sir.

Q. And he told you there was no such person as Mike Sanders?

A. Yes, sir.

Q. And the doctor would be easy to scare on that account?

A. That is right.

(Testimony of Wesley Doores.)

Q. He asked you if you knew Dr. Teed?

A. He asked if I knew him, yes, sir.

Q. And you told him you did not know Dr. Teed?

A. I didn't know him, but I knew of him.

Q. But you never had been in his office?

A. No, sir.

Q. And had never met the man personally?

[70]

A. That is right.

Q. At that time you had been off narcotics—I mean by that, not using narcotics since 1941?

A. That is right.

Q. You had not used any narcotics at all?

A. That is right.

Q. And you want us to understand the only time—the only shot, as you term it, of narcotics you had had was the 17th or 18th of May, of this year?

A. That is right.

Q. And you didn't know Dr. Teed?

A. That is right.

Q. And he asked you if you did?

A. Yes, sir; correct.

Q. Did he suggest to you at that time that you impersonate anybody?

A. He just asked me if he could get some one to impersonate a federal man he could take him for a little dough, and asked about me going, and I said no, I was on parole, and I didn't want any part of it.

(Testimony of Wesley Doores.)

Q. You were afraid your parole would be revoked? A. That is right.

Q. And later on the same month again he brought up the subject again?

A. He just asked me then where he could get a federal badge [71] or some federal credentials.

Q. And you told him you didn't know?

A. Yes, sir.

Q. What reason do you suppose he had for asking you if you knew where he could get a badge?

Mr. Connelly: I object to that as not proper cross examination.

The Court: Sustained.

Q. Was it in the month of January that this incident occurred in the Moore's card room where some man was pointed out to you?

A. No, sir; I think that was about the first of February.

Q. Will you describe that incident again?

A. The guy came in and sat there and was watching the card game and George said to me that was the fellow that wanted to go to Coeur d'Alene, and he backed out because he couldn't get a badge or credentials.

Q. What kind of a looking man was this?

A. A tall, slim, dark complected man.

Q. Did you know the man? A. No, sir.

Q. Have you ever seen him since?

A. Yes, sir; I have seen him since.

Q. Where did you see him?

A. At the county jail. [72]

(Testimony of Wesley Doores.)

Q. Did you find out his name at the county jail?

A. William Singer.

Q. And this man you saw at the county jail was the same man that came in the Moore's card room about the first of February and George Clayton said, "There is the fellow that I wanted to go to Coeur d'Alene, but he backed out and wouldn't go because I couldn't get him a badge and credentials?"

A. Yes, sir.

Q. And your best recollection of that date is the first of February?

A. Somewhere about that time.

Q. Nothing further was said about Coeur d'Alene by George Clayton then until the afternoon of April 9th, when you went out to the house?

A. Somewhere around April 9th. I couldn't be sure of the date.

Q. Do you remember the day of the week it was?

A. I know it was around April 9th or 10th or 11th. It was on Sunday, I know.

Q. And you had some previous understanding you were going out there that day?

A. George asked us out.

Q. He asked you and Kelly?

A. Yes, sir. He was always talking about cooking up a [73] dinner.

Q. Had you and Kelly been there before?

A. I think once or twice before, but I wouldn't say for sure.

Q. Your recollection isn't very good on that?

(Testimony of Wesley Doores.)

A. I have been there several times before. I don't know whether he was there before or after that time.

Q. Did you and Kelly go out there together on the bus? A. We have, yes, sir.

Q. Before or after this time?

A. I couldn't say whether it was before or after. George had taken us out two or three times in the car, and we went out on the bus two or three times.

Q. But this day you rode out with George Clayton in his car? A. Yes, sir.

Q. Did your sister have a car?

A. Yes, sir; but not at that time.

Q. She bought a car later on?

A. Yes, sir.

Q. This car you went in was George Clayton's car and had been his car for sometime?

A. Yes, sir.

Q. Had you gone there to have dinner?

A. Yes, sir.

Q. Will you repeat how this conversation came up about Dr. Teed at Coeur d'Alene? [74]

A. After dinner George told us he had a good score if he could get one of us to go on it, and Kelly asked what kind of a score it was, and he said Shirley had been getting narcotics prescriptions from Dr. Teed.

Q. I don't think the jurors can hear you. Will you start that again, please, and talk loud?

A. After dinner George told us that he had a good score at Coeur d'Alene if he could get one of us to go over there, and Kelly asked what kind

(Testimony of Wesley Doores.)

of a score it was, and George explained that Shirley had been getting narcotics from Dr. Teed on prescriptions under a fictitious name, and he could take the doc for some money if he could get one of us to impersonate a federal man.

Q. Did you say anything about not wanting to get mixed up in it because you were on parole at the time?

A. Kelly asked him why I didn't go, and George told him I was on parole and didn't want to go.

Q. Was anything said to the effect you couldn't go because Dr. Teed might know you?

A. No, sir.

Q. Nothing was said to that effect?

A. Not that I remember, right then.

Q. Well, can you remember any more of the conversation, Mr. Doores?

A. Only what I have told you. [75]

Q. Your sister Shirley had very little part in the conversation?

A. She didn't have much to say.

Q. She didn't have much to say?

A. No, sir.

Q. George Clayton was doing all the talking?

A. No, sir. George didn't do all the talking. She talked a little, too.

Q. But George led off with this subject by talking about this score over at Coeur d'Alene from Dr. Teed?

A. Yes, sir.

Q. And he invited one of you to go?

A. Kelly.

Q. Was it agreed that night that—By the way,

(Testimony of Wesley Doores.)

was the name of Dr. Teed mentioned? I mean, was the name "Teed" mentioned in the conversation. A. Yes, sir.

Q. Who mentioned the name of Teed?

A. George mentioned it and Shirley mentioned it.

Q. George mentioned the name of Teed?

A. Yes, sir. To start off with, yes.

Q. Was anything said by anyone about what Kelly should take with him in the way of credentials? A. Not right then.

Q. Was anything said about how he should act or what he [76] should do?

A. Well, that he would come in the office about fifteen minutes after Shirley went in and sit down in the office and Shirley would look out and say, "There is a federal man out there" to the doc.

Q. Was any advice given him about what he should do with reference to the doctor?

A. George told him to tell him his name was Graven and that he was over there checking prescriptions, and it looked pretty bad for the doc.

Q. That is what George told him to say?

A. That is right.

Q. And did George say anything about throwing a good scare into him?

A. He said the doc would probably be scared.

Q. Did he say to throw a good scare into him?

A. Not that I recall.

Q. Who brought you down town after that meeting?

(Testimony of Wesley Doores.)

A. George brought Kelly and I down, and Shirley. I think Shirley was along.

Q. Did you and Kelly leave the car together?

A. Well, I don't just recall whether Kelly got out of the car at the same time or not. But I believe he did.

Q. Where was it talked about going to—about George Clayton driving Kelly and Shirley over to Coeur d'Alene? [77]

A. I didn't hear the question.

Q. Where was it discussed about George Clayton driving Kelly and Shirley over to Coeur d'Alene next day, where was the subject discussed, or was it discussed?

A. It was discussed the first day out there.

Q. Out at the house? A. Yes, sir.

Q. George agreed at that time he would drive them out in his car?

A. In the conversation George said he would drive them over, but later on in the conversation he backed out and it was agreed they would catch the bus.

Q. You were to be at the Halliday Hotel?

A. Yes, sir.

Q. And you went up to the house at 6:30 in the morning to wake your sister up so she could catch the 7:00 o'clock bus? A. Yes, sir.

Q. How did you get out there?

A. I took a cab.

Q. You took a taxicab? A. Yes, sir.

(Testimony of Wesley Doores.)

Q. It is five or six miles out in Spokane Valley?

A. Yes, sir.

Q. And did you take your sister to the Trent Road to the bus? [78]

A. No, sir. She walked from the house.

Q. Did you walk with her? A. No, sir.

Q. Did you see George Clayton that morning?

A. I did. He was in bed.

Q. He didn't even bother to get up?

A. No, sir. He said he was going to sleep until she came back, that his back hurt him.

Q. And you came back down town?

A. I did.

Q. And when you came back down town did you go right to the Halliday Hotel?

A. Not right away. I fooled around and then went to the Halliday about 9:30 or a quarter to 10:00.

Q. And you went to the clerk and told him you were Mike Sanders and were expecting a long distance call from Coeur d'Alene? A. Yes, sir.

Q. And the 'phone call came about 11:30?

A. Yes, sir.

Q. And in this conversation did your sister tell you where she was talking from?

A. She didn't say.

Q. In the conversation what was it she said about Dr. Teed, if anything? [79]

A. She just asked me if I had talked to a federal man, and I told her I had talked to the federal man.

(Testimony of Wesley Doores.)

Q. And did you tell her you had not got any narcotics from prescriptions written by Dr. Teed?

A. I told her I got no narcotics from Dr. Teed. I don't think prescriptions was mentioned.

Q. Just narcotics? A. Just narcotics.

Q. After you had had this little conversation with sister, you went over to Moore's card room?

A. No, sir. I drank a cup of coffee and met Kelly about 1:30.

Q. Where did you meet him?

A. In the Turf Bar of Turf Cafe.

Q. How long a time did you spend with Kelly?

A. We sat there probably forty-five minutes—maybe an hour—when George came in.

Q. You and Kelly sat there about forty-five minutes to an hour until George came in?

A. Yes, sir.

Q. And when George came in did he speak to Kelly?

A. He spoke to both of us, and he sat down and had a cup of coffee with us.

Q. What did he say to Kelly?

A. He asked how things went and Kelly said everything went the way it was planned, and the doc wasn't suspicious. [80]

Mr. Connelly: I didn't hear you.

A. Kelly explained to George everything went according to the way it was planned.

Mr. Connelly: Did I hear the word "suspicious"?

(Testimony of Wesley Doores.)

The Court: He said Kelly told George everything had gone the way it was planned and the doctor was not suspicious.

A. That is right.

Q. That is what Ed Kelly told George Clayton in your presence at the Turf Cafe?

A. Yes, sir.

Q. After you and Kelly had been sitting there about forty-five minutes or an hour drinking coffee?

A. Yes, sir.

Q. And you stayed there until your sister came?

A. No, sir; we fooled around town. We maybe went across the street to Moore's; anyway, we met at about 4:30 or 5:00.

Q. In this conversation at the Turf Cafe, Kelly didn't say something to Clayton, "I don't know; I haven't seen Shirley yet"?

Mr. Connelly: I object as not being proper cross examination.

The Court: The objection is overruled.

A. I didn't get you. (Question read) Well, George asked where Shirley was and then Kelly told him he had left [81] Shirley at Coeur d'Alene.

Q. But he said everything had gone as planned and the doctor was not suspicious?

A. That is right.

Q. When you went into the Turf was Kelly already there or did he come in after you were there?

A. Well, I believe that I was already in the Turf when I met Kelly—when Kelly came in.

(Testimony of Wesley Doores.)

Q. Did Kelly come in alone? A. Yes, sir.

Q. And as I understood it, you and he talked together—you and Kelly talked together forty-five minutes or an hour?

Mr. Connelly: That is unnecessary repetition. It has been asked five times now.

The Court: Overruled.

Q. You were there forty-five minutes or an hour before Clayton showed up?

A. Thirty or thirty-five minutes. I wouldn't be sure.

Q. Did you see the direction from which Kelly came? A. I did not.

Q. Did he tell you he had just arrived in town from Coeur d'Alene?

A. He said he had taken the first bus back from Coeur d'Alene, whatever one it was. [82]

Q. Did he tell you where he got off the bus?

A. He didn't say.

Q. Did he tell you whether he had been to Moore's Tavern before he came to the Turf?

A. I don't know whether he did or not.

Q. Do you know whether he came in alone?

A. Yes, sir.

Q. When Shirley came then were you all there yet?

A. We had met there then, George Clayton, Kelly and myself.

Q. All three of you were there together?

A. Yes, sir.

Q. And you said something to the effect that

(Testimony of Wesley Doores.)

George Clayton went out on the sidewalk in front of the place and talked with Shirley?

A. Yes, sir.

Q. How long was he there?

A. I don't remember, but a few minutes, ten or fifteen minutes; somewhere around there.

Q. Were they in your vision at the time?

A. They was.

Q. When George Clayton came back in did she come in with him? A. She did.

Q. Who spoke the first words to you or Kelly?

Mr. Connelly: When?

Q. When they came in? [83]

A. George did, I believe.

Q. What? A. George did, I believe.

Q. What did he say?

A. He just said, "The doc didn't come up with as much money as we figured he would."

Q. Did he say how much the doc had come up with?

A. No, sir; he didn't say. Shirley spoke up and said she had gotten \$300 from the doc.

Q. Was anything said about dividing up at that time? A. Not right then.

Q. Did you see the money? A. I did not.

Q. Was anything said about whether the money was in checks or in currency?

A. I believe a check was mentioned, but I don't recall what it was.

Q. Was anything said about having to get some-

(Testimony of Wesley Doores.)

body to negotiate a check or cash a check that you can remember? A. I don't recall.

Q. You don't remember that? A. No.

Q. Would you say it did not——

Mr. Connelly: I object as not proper cross examination. [84]

The Court: Overruled.

Q. You don't recall anything about something being said with respect to a check would have to be cashed and Shirley didn't want to negotiate it in her own name, or something like that?

A. Something was mentioned about a check, but I don't recall what was said about a check.

Q. Then you went out to the house together?

A. Yes, sir.

Q. How did you go? A. In a cab.

Q. How long did you stay at the house?

A. I stayed there until about 9:00 o'clock.

Q. Did you separate from the time you three left the Turf before going out to the house at all?

A. No, sir. Not that I remember.

Q. Shirley did not leave you and go any place?

A. Not that I remember she didn't.

Q. Is there a cab stand there by the Turf?

A. We left, I believe, in the same cab she came up in. She had the cab wait for us.

Q. Had she kept the cab waiting there all the time you were in the Turf?

Mr. Connelly: That is objected to. The witness has not indicated any time they were in the Turf after Shirley [85] arrived.

(Testimony of Wesley Doores.)

Q. Had she kept the cab waiting there during the ten or fifteen minutes you said she talked to Clayton on the street?

A. She had the cab waiting there then.

Q. And also during whatever time was consumed while you four were in the Turf?

A. It might have been ten, twelve or fifteen minutes all together during the time she was talking on the sidewalk and during the time we talked in the Turf.

Q. And you went out to the house on East Carlisle in this cab? A. Yes, sir.

Q. As soon as you got there did she divide up the money? A. Not right away.

Q. Who brought up the subject of dividing the money?

A. I don't recall who did. I know it was divided up.

Q. She told you she had \$300. A. Yes, sir.

Q. And she gave Kelly \$100?

A. And me \$80.

Q. Was any explanation given why you didn't get \$100, too?

A. Oh, I don't recall what it was now.

Q. There was something said?

A. There was a briefcase brought or something—something she [86] had bought took out for.

Q. That was taken off the top before you got your cut? A. Yes, sir.

Q. You got \$80 and Kelly got the full \$100?

Q. And Shirley kept the \$120 for her share?

A. Yes, sir.

(Testimony of Wesley Doores.)

Q. Of the \$300 she had gotten?

A. Yes, sir.

Q. And did she say at the time the doctor promised he would pay another \$300 later?

A. She said something about getting more money from the doc next day.

Q. When did you get your cut out of the next money?

A. I seen them the next day. I seen George and Kelly on the street.

Q. Where were they?

A. I don't know; on Main someplace, by Moore's or by the Turf.

Q. Did you have some conversation with Goerge Clayton and Kelly at that time? A. Yes, sir.

Q. What did they say and what did you say?

A. George said he drove Shirley over to Coeur d'Alene and she got some more money and gave Kelly \$60 to give to me.

Q. Did Kelly give you the \$60? [87]

A. Yes, sir.

Q. In Clayton's presence? A. Yes, sir.

Q. And that made \$140 you had got?

A. Something like that.

Q. When was the next time you got any more money?

A. I didn't get any more after that until I borrowed \$100 off of George.

Q. You considered that a loan?

A. Yes, sir; a loan.

Q. How long after that?

(Testimony of Wesley Doores.)

A. Oh, I don't know. Around the 20th or 23rd; somewhere around there.

Q. Did Kelly tell you how much money he got out of the second payment?

A. He didn't say.

Q. Did you ask him whether he got \$60 or more?

A. I believe he did say he got \$60.

Q. He had gotten \$60, too?

A. I believe so.

Q. And was the second payment supposed to be \$180?

A. I don't know what the second payment was supposed to be.

Q. Were you told what it was?

A. I wasn't told, no.

Q. Were you told that the first payment was \$300 and you were [88] not told the second was to be \$300?

A. I wasn't told the first payment was \$300.

Q. Were you not told the second payment was to be \$300 as well?

A. No, sir; I don't believe I was. They may have mentioned it, but I don't recall whether it was mentioned or not.

Q. At any rate, you got \$60, and you understood that was what Kelly got?

A. Yes, sir. I understood that was what he got.

Q. How long after this first day was it you got the second payment?

A. I got one one day and the \$60 the next day.

(Testimony of Wesley Doores.)

Q. You got \$80 the first day and \$60 the next day? A. Yes, sir.

Q. And \$60 you got was paid to you by Kelly?

A. Yes, sir.

Q. In George Clayton's presence on Main Avenue?

A. Yes, sir; at the Turf Cafe.

Q. In connection with this \$100 loan you say Clayton made to you, he mentioned, you say, some little white tablets? A. Yes, sir.

Q. And you said that is what he called morphine? A. Yes, sir.

Q. Did he show you any little white tablets?

A. No, sir; he didn't. [89]

Q. In what connection did he bring that up? Why did he mention the little white tablets?

A. He flashed his billfold and he had a whole billfold of money, and he said, "That ain't all I got." See what I got. That ain't all I got. I got some of those little white tablets."

Q. As a matter of fact, George Clayton usually has money? A. Yes, sir.

Q. And did have long before this matter came up?

A. I have always seen him with a little.

Q. You always made it a point to borrow quite a bit from him, did you not?

Mr. Connolly: I object to that as being incompetent, irrelevant and immaterial. It has nothing to do with this case.

The Court: The objection is sustained.

(Testimony of Wesley Doores.)

Q. When did you and Kelly get together again after he gave you the \$60?

A. The next time I seen him——

Q. After he gave you the \$60?

A. I probably seen him on the street different times. The next time I know for sure when I seen him was when he drove by my apartment.

Q. And that was about the middle of May?

A. That was around the 20th or 23rd. It could have been later than that. [90]

Q. The 20th or 23rd of April?

A. Of April, yes, sir.

Q. And that was when he told you he suspected that you and he had not got your fair cut out of that money?

A. Do you mean Clayton or Kelly?

Q. Kelly. A. No——

Q. I asked you when after this second day when Kelly gave you the \$60 at the Turf Cafe, when did you and Kelly get together or meet casnally?

A. It was about the 17th or 18th of May he came to my apartment.

Q. In other words, more than a month later?

A. We met off and on and talked, and probably met a dozen times since then.

Q. That was when Kelly told you he had reason to believe he had not got a fair share out of it; that your sister had got more money than she admitted?

A. He said he thought they got more money than they told him they had.

(Testimony of Wesley Doores.)

Q. Who brought up that conversation?

A. I don't know. Maybe both of us did.

Q. Did he state to you Shirley had got more money than she told you, or did you state to him—Who first stated it?

A. I believe Kelly did. [91]

Q. You didn't go to Kelly and tell him you had reason to believe and you knew that Shirley had gotten a lot of money out of this doctor she had not accounted for?

A. Kelly mentioned it two or three times.

Q. Before or after this time?

A. He suspicioned before this that he had got cut short on this.

Q. You did not say to him, "I know that" or "I found it out"?

A. Not on that occasion, I didn't. I believe he came to my apartment. That was where we talked anyway, about it.

Q. He came to your apartment and that is where you were talking about it?

A. Yes, sir.

Q. Well, later on when was it you went to Coeur d'Alene with Kelly?

A. It was next day.

Q. You and he decided you and he would go up and find out?

A. He decided he would go up and find out and I went along with him.

Q. Just for the ride?

A. Just for the ride.

(Testimony of Wesley Doores.)

Q. And you wanted to find out if you had got cut out of anything, too?

A. I wasn't cut out of nothing.

Q. What? [92]

A. I wasn't cut out of anything.

Q. But you did go with Kelly, and you sat in the cafe while he talked with the doctor?

A. Yes, sir.

Q. And he came back and reported to you the doctor said he had given your sister almost \$14,000?

A. That is right.

Q. When you came back to town where did you go then?

A. I don't recall just where we did go then when we got off the bus.

Q. You don't recall where you went?

A. Where we got off the bus and where we went—You mean when we came back?

Q. You and Kelly?

A. We stopped at George's house on the way back.

Q. Was George there? A. Yes, sir.

Q. And Shirley? A. Yes, sir.

Q. What part of the house were you in?

A. Shirley was in the front room and I believe George was out back or on the lawn or in the garage.

Q. When you came in did George come in the house?

A. Yes, sir. Shirley called him in.

Q. And when he came in what did he say? [93]

(Testimony of Wesley Doores.)

A. Kelly told him he had been to see the doc, and George was mad.

Q. What did George say?

A. Kelly told him if he didn't come up with his part of the money he would put the finger on him.

Q. And George said, "Go ahead and put the finger on me"?

A. Yes, sir. That he could do the time if Kelly could do it.

Mr. Connelly: I could not hear you.

A. He said, "Go ahead, put the finger on me. I can do the time if you can."

Q. Did Kelly ask Shirley how much money she had gotten?

A. Yes, sir; I believe so.

Q. What did she say?

A. She said she didn't get that much.

Q. Did Kelly ask Clayton how much she had gotten?

A. I believe he did.

Q. What did Clayton say?

A. I don't believe George said anything about the amount of money she got.

Q. Did he say something to the effect, "I don't know how much money she got"?

A. I don't recall whether he said that or not.

Q. You can not remember his saying that?

A. Just whether he said that or what he did say right then, I don't remember.

Q. And Kelly asked George to drive Shirley and him over to [94] Coeur d'Alene to see the doctor?

A. That is right.

Q. And George said he would not do it, that he

(Testimony of Wesley Doores.)

didn't want his car seen in Coeur d'Alene?

A. That is right.

Q. It was some days later he called you on the telephone?

A. Yes, sir.

Q. Where did he call you?

A. At my apartment on East Pacific.

Q. And in the conversation he said, "You and that other rat keep your mouths shut, or I will see you go to the penitentiary, and I have the money to do it"?

A. He didn't say it just like that. He said, "You and that other rat had better keep your mouth shut, and if you know what is healthy for you you had better get out of town."

Mr. Smith: I would like to reserve the right to further cross-examine this witness, but I have finished at this time.

The Court: Any redirect examination?

Mr. Connelly: Yes, but I would prefer to do it when he finishes.

(Witness Excused) [95]

(Whereupon an adjournment was had to the hour of 1:15 o'clock p. m., December 6, 1944, at which time, all parties being present as heretofore, including all the jury, the trial was resumed as follows, to-wit:)

Mr. Connelly: I wish to recall Mr. Kelly for redirect examination.

The Court: Did you have any further cross examination?

Mr. Smith: Not at this time, Your Honor.

EDWARD WILLIAM KELLY

recalled as a witness by the Plaintiff, further testified as follows:

Redirect Examination

By Mr. Connelly:

Q. Directing your attention to the afternoon or evening of the 10th of April, when you testified the \$300 was supposed to be divided between you and Wesley or Bunny Doores, can you tell us what, if any, part Mr. Clayton took in any conversation about the split or division of that money?

A. Well, he came out there—he entered the house right after Shirley divided the money with me and Bunny, and she told George that she thought Bunny was dissatisfied with his share of the money. She wanted to know what he thought Bunny should get out of that much money.

Q. What did he say?

A. And he said he thought Bunny should have made that a [96] complimentary play.

Q. For what reason, if he said?

A. He didn't give no reason.

Q. Directing your attention to April 15 or about April 15, will you state whether or not you had occasion to go to Pasco with Mr. Clayton?

A. I did.

Q. Either before or during the time you were on that trip, did he state his purpose in going down there, and, if so, what did he say?

A. He said he thought he would go to Pasco and see if he could buy a place of business for a beer joint.

(Testimony of Edward William Kelly.)

Q. Who made the trip?

A. Myself and Clayton and some woman named Rita Taylor.

Q. How long did you stay at Pasco?

A. We left here Saturday evening and came back Monday afternoon.

Q. Who returned with you?

A. A man named Sam Lavin?

Q. Did you know him before? A. I did.

Q. I will ask you if after we left here yesterday you asked to see me, and called attention to a matter I neglected to ask you about yesterday?

A. That letter.

Q. What? [97]

A. A letter I had wrote you.

Q. When did you write it?

A. Sometime in August.

Q. With reference to any conversation you had with George Clayton that I neglected to ask you about yesterday, and which you referred to in your letter, will you tell us what that conversation was?

A. Yes, sir. I met him down town after me and Bunny had been up to Coeur d'Alene and come back and seen Shirley.

Q. About when was that?

A. I think in May, around the 16th of May.

Q. Tell us what the conversation was, all of it.

A. We had had an argument with her in regard to the money out at the house, and she told us to leave the house, which we did, and I seen Clayton down town, and he took me in his car and we talked

(Testimony of Edward William Kelly.)

in regard to this money, whether she had gotten more than \$600 or not, and he said he knew she didn't get more than \$600. He said "I think she is telling the truth."

Q. What else did he say?

A. He said Bunny was the one that was doing the talking, and telling me, and he had gotten enough money, and the best thing Bunny could do was to shut his mouth and take it easy or he would have somebody come in here and see he did keep quiet. [98]

Q. What, if anything, did he say about Bunny getting any money out of this transaction, in that conversation, about how much money he thought Bunny should have gotten out of this transaction?

A. He said what Bunny did he wasn't entitled to no money.

Q. About his own wishes in the matter—Clayton's wishes?

A. He said if he had his way Bunny would not have been mixed up in it, and he would have got no money.

Q. What, if anything, was said by Clayton about keeping you and Bunny quiet, or getting somebody to keep you quiet?

A. He said he would get somebody to come in here and keep us quiet.

Q. Directing your attention now to the evening that you referred to, on the 9th of April, out at the house, when you say you four discussed this matter, I will ask you what, if anything, Clayton

(Testimony of Edward William Kelly.)

said to Bunny in that discussion about telling or not telling his wife about what you folks were going to do?

A. He mentioned to Bunny not to tell his wife, or if he told her she would tell Anderson and Albright, and we would all be in jail.

Q. Did he say it several times?

A. Yes, sir.

Q. Did Shirley say it to Bunny too?

A. Yes, sir. [99]

Q. Who are Anderson and Albright?

A. Two City Detectives.

Q. During the discussion of the plans out there that night, what can you tell us as to whether or not Clayton okehed or approved any proposals made by Shirley?

A. When we was dissecussing this thing——

Mr. Smith: I think I shall object to that.

The Court: The objection is sustained.

Mr. Connelly: On the ground it is not proper redirect examination?

The Court: That would be a good ground, but I sustained it on the ground it calls for the conclusion of the witness. You asked if he okehed or approved it.

Mr. Connelly: May I ask it in another form?

The Court: Unless Mr. Smith wishes to object that it is *no* not proper redirect examination.

Mr. Smith: I do so object.

The Court: I will sustain that objection.

Mr. Connelly: You may cross examine.

(Testimony of Edward William Kelly.)

Re-Cross Examination

By Mr. Smith:

Q. This trip to Pasco was on April 15th?

A. I am pretty sure.

Q. Do you know what day of the week you left for Pasco? A. On Saturday. [100]

Q. And you stayed there until Monday?

A. Yes, sir.

Q. And you rode down in Clayton's car?

A. That is right.

Q. And somebody named Rita Taylor was in the car with you? A. Yes, sir.

Q. Did she return with you? A. Yes, sir.

Q. In addition to her a man named Sam Lavin returned? A. Yes, sir.

Q. Were you with Clayton at Pasco?

A. I was.

Q. What hotel did you stay at in Pasco?

A. The Pasco Inn.

Q. Did you register?

A. No, sir; he registered for me.

Q. Were you present when he registered for you? A. I was not.

Q. Do you know what name he put on the register? A. No, sir; I don't think I do.

Q. But you did stay at the Pasco Inn on the night of the 15th of April and the night of the 16th of April?

A. We stayed in Kennewick the first night.

Q. What hotel did you stay at there?

A. I don't recall the name of it. [101]

Q. Where is it located in Kennewick?

(Testimony of Edward William Kelly.)

A. I don't know. It was 1:00 o'clock in the morning, when we got in, and it was dark. I couldn't tell you where it was located.

Q. It was dark, and you don't know where it was located. Was it on the main street?

A. I think it was.

Q. How large a hotel was it?

A. About 30 or 40-room hotel, I would imagine.

Q. And who stayed there besides you?

A. Clayton and this woman.

Q. And the next night you stayed at the Pasco Inn?

A. Yes, sir.

Q. In Pasco?

A. Yes, sir.

Q. Did you register at the Pasco Inn?

A. I don't think I did. I think he registered for us.

Q. Clayton made both registrations?

A. I think he did.

Q. Were you out of the city of Spokane at any other time after April 10th?

A. I was.

Q. Where did you go?

A. I left Spokane after I came back from Pasco with Clayton, and I went to Anaconda and Butte, Montana. [102]

Q. When did you go to Anaconda?

A. I think I left here on the 20th or 21st of April.

Q. How long did you stay in Anaconda?

A. I was there about a week.

Q. Did you go alone on that trip?

A. I did.

(Testimony of Edward William Kelly.)

Q. And you stayed over there one week?

A. About a week.

Q. What hotel were you in at Anaconda?

A. The Montana Hotel.

Q. What name were you registered under?

A. Under my own name.

Q. Your name of Edward Kelly?

A. Edward Kelly.

Q. And did you leave there and go to Butte?

A. Yes, sir.

Q. How long were you at Butte?

A. I was only in Butte a day and I came back here.

Q. Did you stay at a hotel in Butte?

A. No, sir. I was there only one day.

Q. You were in Anaconda from the 20th until near sometime around the 27th or 28th of the month?

A. That is right.

Q. Then you came back to Spokane?

A. Yes, sir. [103]

Q. Did you make any other trip out of Spokane from April 10th on until the date of your arrest?

A. Yes, sir. I made several trips to Coeur d'Alene.

Q. You went up to Coeur d'Alene?

A. Yes, sir.

Q. On what dates were you in Coeur d'Alene?

A. I couldn't say as to the dates, but sometime in May.

Q. Was that the trip you are referring to when you went up to see Dr. Teed with Bunny Doores?

(Testimony of Edward William Kelly.)

A. Yes, sir.

Q. Is that the only trip you made to Coeur d'Alene?

A. Yes, sir; that is the only time I went up there that I recall.

Q. You said several trips?

A. I went up once with Shirley and once with Bunny.

Q. You went up with Shirley on the 10th of April? A. Yes, sir.

Q. And you went up with Bunny and yourself and then you went up with Shirley again?

A. Yes, sir.

Q. That was the day of your arrest by the sheriff at Coeur d'Alene? A. That is right.

Q. Were you any other place from the 10th of April to the date of your arrest outside the city of Spokane? A. Not that I know of. [104]

Q. Were you living at the Galax Hotel all that time? A. That is right.

Q. Where did you meet George Clayton down town on the 16th of May?

A. I don't exactly know what you mean.

Q. Where did you meet him on the 16th. You said you met him on the 16th of May, and he took you in his car.

Mr. Connelly: April.

Mr. Smith: I do not think I am mistaken on that.

Q. Did you not say you met him on the 16th of May? A. Yes, sir.

(Testimony of Edward William Kelly.)

Q. Where did you meet him?

A. Along the side of the Spokane Air Depot, or the depot across the street from the Chicago Hotel. I don't know one street from the other out here.

Q. The Spokane Air Depot?

A. I think that is what they call it. It is the building that sets there on the corner of Main Avenue and that cross street by the Chicago Hotel.

Q. And where did you drive to?

A. We didn't drive.

Q. What did you do?

A. Sat in the car and talked.

Q. You sat in his car and talked?

A. Yes, sir. [105]

Q. That is when he told you he knew Shirley did not get more than \$600?

A. That is right.

Q. Where was this statement made that nothing should be said to Bunny's wife about this matter, or she would tell Anderson and Albright?

A. Out at the house.

Q. When?

A. The time the plans were talked over the night of April 9th.

Mr. Smith: That is all.

Mr. Connelly: That is all.

(Witness excused)

Mr. Connelly: I want Mr. Kelly to remain in the court room while the next witness is called, who may or may not identify him, and I would like

to request that Shirley Doores come in the court room too. Is Stevenson there?

The Baliff: No.

Mr. Connelly: Then call Dr. Teed.

Mr. Smith: Are you going to recall Bunny Doores?

Mr. Connelly: No.

Mr. Smith: Go ahead. At some other stage I want to ask him some further questions.

Mr. Connelly: I will not call the witness I had in mind until Shirley is here. I will call Dr. Teed now. [106]

DR. E. H. TEED

called as a witness by the Plaintiff, first duly sworn, testified as follows:

Direct Examination

By Mr. Connelly:

Q. Please state your name.

A. E. H. Teed.

Q. You live at Coeur d'Alene, Idaho?

A. Yes, sir.

Q. What is your profession?

A. Physician and surgeon.

Q. How long have you practiced your profession, Doctor, at Coeur d'Alene?

A. Eighteen years.

Q. You are licensed under the laws of the State of Idaho to practice medicine and surgery?

A. Yes, sir.

(Testimony of Dr. E. H. Teed.)

Q. How long have you held such license?

A. Since 1919.

Q. I will ask you to state whether or not you are acquainted with Shirley Doores.

A. Yes, sir.

Q. Approximately when did you first meet her and where did the meeting take place?

A. I first met her about the last of December, 1943, in my office at Coeur d'Alene. [107]

Q. At that time did she use the name Shirley Doores to you? A. No, sir.

Q. What name did she use?

A. Velma Rock.

Q. If she stated the purpose of her visit to your office, tell us what she said.

A. She said that she had been injured in an automobile accident about a month or two before, and she had an injured spine and was using some morphine to relieve the pain, and wanted to know if I would give her a hypo.

Q. Did you do so? A. I did.

Q. How long after that was it before you next saw her?

A. About the first of Janpary, 1944.

Q. Do you mean on New Year's day or are you fixing a period?

A. The first or second of January.

Q. And what conversation did you have with her at that time?

A. She wanted me to give her a prescription for some morphine so she could get some tablets.

(Testimony of Dr. E. H. Teed.)

Q. Did you do so? A. I did.

Q. How long after that was it until you next saw her? A. I think about January 5th.

Q. And what was the conversation with her at that time ?

A. She wanted another prescription for some morphine. [108]

Q. Did you give her one? A. I did.

Q. When was it that you next saw her?

A. I believe about the 12th of January.

Q. What did she say to you at that time?

A. She just wanted another prescription.

Q. Did you give her another prescription?

A. Yes.

Q. For what? A. For some morphine.

Q. Do you recall the quantity?

A. I think forty half grains; I am not sure.

Q. After that date, January 12th, do you recall when it was that she was next in your office?

A. Do you care if I refer to my notes?

Q. For the purpose of refreshing your recollection? A. Yes, sir; for the dates.

Mr. Connelly: May he refer to his notes?

The Court: You can look at your notes and refresh your recollection. You cannot testify from your notes, but by looking at them you can refresh your memory as to dates.

Q. When were those notes made?

A. They were made at the time of the last hearing.

(Testimony of Dr. E. H. Teed.)

The Court: The hearing before the Grand Jury?

A. No. At the time we were supposed to have the trial in October. [109]

The Court: You cannot use those. These are not original notes that he made at the time. If he had a prescription book here he could refer to that, but he cannot look at notes he made up. Just put those back in your pocket, Doctor.

Q. I now hand you plaintiff's Exhibits for identification 1 to 17, inclusive, and I direct your attention as to the dates, particularly the date of Plaintiff's identification No. 4, and I will ask you to examine them each, and to state what they are, and after you have stated that, to tell us whom you delivered them or handed them over to. Tell us what they are for after you have examined them.

A. They call for narcotics.

Q. What is the first date in the order of time?

A. The 30th of December, 1943.

Q. And that is identification 4, in the series which you hold in your hand? A. Yes, sir.

Q. What is the next date, going through them in order to No. 17—No. 16?

A. That is for narcotics.

Q. What is the date? A. April 8, 1944.

Q. You wrote the prescription? A. I did.

Q. With reference to identifications Nos. 1, 2, 3 and 4, whose name appears thereon as the patient?

[110]

A. Velma Rock.

(Testimony of Dr. E. H. Teed.)

Q. With reference to identifications 5 to 16, inclusive, whose name appears thereon as the patient?

A. Mike Sanders.

Q. With reference to Plaintiff's identification 17, whose name appears thereon?

A. H. L. Irvy.

Q. To whom did you deliver identifications 1 to 4, and 5 to 16, inclusive?

A. To the same person, Velma Rock.

Q. Do you mean Shirley Doores also?

A. Yes, sir.

Q. You have since learned her name is Shirley Doores?

A. Yes, sir.

Q. What, if anything, did you do with plaintiff's identification 17?

A. I gave it to Mr. Irvy.

Q. You did not give it to Velma Rock?

A. No, sir.

Mr. Connelly: I withdraw it for the time being.

Q. Will you state whether or not identifications 1 to 16 were given to Shirley Doores on the date which appears on each of the prescriptions?

A. Yes, sir.

Q. Where? [111]

A. The prescriptions were given in my office.

Q. In each instance?

A. Yes, sir.

Q. Will you state the circumstances under which you gave Shirley Doores prescriptions written in the name of Mike Sanders, and how that came about?

A. She told me she had a sick friend named Mike Sanders who was not able to come to the office,

(Testimony of Dr. E. H. Teed.)

and asked if I would—he was a user of morphine—and asked if I would give her the prescription for Mike Sanders so she could take it to him.

Q. Do you know when that was?

A. The nearest I can remember it was about the 30th of January.

Q. Do any of the identifications here indicate the first prescription you made out in the name of Mike Sanders?

A. Yes, sir; No. 5.

Q. No. 5?

A. Yes, sir.

Q. And will you tell us what conversation, if any, you had with Shirley Doores with reference to the giving of the prescription to her, being written in the name of Mike Sanders?

A. Well, she claimed she had a friend named Mike Sanders and he sent her to get the prescription. [112]

Q. Are you speaking of an occasion after the first prescription you wrote for Mike Sanders?

A. After the first one or two she always asked to make them out for Mike Sanders.

Q. State whether or not any conversation was had between you and Shirley Doores about the amount of morphine you should prescribe in each prescription at any time?

A. After the first two or three she asked me to increase the amount.

Q. Was any reason stated by her or was it just a request?

A. Just a request.

Q. And you did so?

A. Yes.

(Testimony of Dr. E. H. Teed.)

Q. How long did you continue to give her the prescriptions in the name of Mike Sanders?

A. Up to about April 8th.

Mr. Connelly: I will offer plaintiff's identifications 1 to 16 in evidence.

The Court: By the 30th of January you knew that Shirley Doores was an addict?

A. Yes, sir; I was pretty sure of that.

The Court: Did she make any statement as to being sick after the first examination?

A. No, sir.

The Court: And you knew from that time on she was getting it for that use? [113]

A. Yes, sir. I knew that what she got for herself was, but I was under the impression what she was getting for Mike Sanders was for him.

The Court: But you said that she said Mike Sanders was a user too?

A. Yes, sir.

The Court: She did not say he was injured and needed it for a legitimate purpose?

A. The claim was that he had syphilitic ulcers and was not able to walk.

Q. (Mr. Connelly): Who made that claim?

A. Shirley Doores.

Q. When did she make that claim to you?

A. The first prescription I wrote for Mike was the first time she referred to it.

Q. That was the first time she referred to Mike Sanders?

A. Yes, sir.

(Testimony of Dr. E. H. Teed.)

Q. Or asked you to write a prescription for Mike Sanders? A. Yes, sir.

Q. Where did she say Mike Sanders lived?

A. She said he lived at Granite, Idaho.

The Court: Morphine is not a recognized medication for syphilitic ulcers, is it, Doctor?

A. Except for pain.

Mr. Glesson: There is no objection. [114]

The Court: Plaintiff's Exhibits 1 to 16 are admitted in evidence.

(Prescriptions marked for identification Plaintiff's Exhibits 1 to 16, inclusive, admitted in evidence.)

[Printer's Note]: Set out in full at pages 37-52 of original reporter's transcript.

Q. (Mr. Connelly): Directing your attention to the 9th of April, Doctor, will you state whether or not Shirley Doores was in your office on that day?

A. The 9th of April?

Q. Pardon me. The 10th of April.

A. Yes, sir. She came to my office on the 10th of April.

Q. What conversation did you have with her at that time?

A. She wanted a prescription for morphine, and I told her I could not give her any more.

Q. How long did she remain in your office at that time?

A. I imagine 15 or 20 or maybe 30 minutes.

(Testimony of Dr. E. H. Teed.)

Q. And as she was leaving will you state whether or not you met anyone else in your office?

A. As she got up to leave, somebody rapped on the door, and I opened the door, and this strange man came in.

Q. Have you seen that man here around court today? A. I saw him in the corridor.

Q. Today? A. Yes, sir.

Q. Do you know his name?

A. His name is Kelly. [115]

Q. Edward Kelly? A. Yes, sir.

Q. Now, will you tell the Court and jury what conversation took place when Mr. Kelly appeared at your office, when Shirley Doores and you were about to leave your private office?

A. When this man came in, the first thing he said was "Hello, Shirley. What are you doing here?" And he said "I am Mr. Graven, from the narcotics office at Seattle."

Q. And what did Shirley do?

A. Then Shirley introduced me to Mr. Graven as a narcotic agent from Seattle, and——

Q. How long did Shirley remain after that?

A. She started to leave after that, and this man told her not to leave, because he wanted to see her, but she left the office and went downstairs, and this Mr. Graven sat down and said he had a—had been talking to Mike Sanders and that Mike told him he had not been getting morphine from me, and that he had a warrant in his pocket for my arrest.

(Testimony of Dr. E. H. Teed.)

Q. What, if anything, was said about prescriptions in the name of Mike Sanders?

A. He said I had been issuing prescriptions to Mike Sanders.

Q. Did he say he had been talking with Mike Sanders? A. Yes, sir.

Q. What did he say that Mike Sanders had told him about [116] prescriptions for morphine?

A. He said that Mike told him he had not been getting any morphine.

Q. Had not been getting any? A. Yes, sir.

Q. What else, if anything, did he say about Mike Sanders, or whether Mike Sanders had ever been at your office?

A. And he said that Mike Sanders had never been to the office.

Q. Did he say that Mike Sanders said he never had been there, or that Mike Sanders never had been there—was he accusing Mike Sanders of not being there, to you?

A. He said that Mike Sanders told him he had not been to the office.

Q. What did you say to this man about these Mike Sanders prescriptions?

A. I told him I had written Mike Sanders prescriptions, but I was under the impression I was not violating any law in writing the prescriptions.

Q. What did this man who represented himself as Mr. Graven have with him, visible to you?

A. He had a briefcase with some papers in it.

Q. What, if anything, was said by you or by

(Testimony of Dr. E. H. Teed.)

him about any credentials, as a narcotics inspector?

A. He said he had his credentials in his pocket, and he fingered out some papers, but I didn't examine them. [117]

Q. Did he hand them to you? A. No, sir.

Q. What did this man pretending to be Mr. Graven tell you he was going to do about these Mike Sanders prescriptions?

A. He said he wouldn't serve the warrant at that time, but would wait until five o'clock until he had contacted the office in Seattle.

Q. And after that did he remain or leave?

A. He left shortly after that.

Q. Then who returned to your office following that?

A. Shirley Doores came back to the office then.

Q. Approximately how long after Kelly or Graven left was it that Shirley Doores returned?

A. About fifteen minutes.

Q. Will you tell what Shirley Doores had to say to you about this Mr. Graven or about his visiting your office?

A. She said she had met Graven down on the sidewalk and had had a talk with him, and she thought that Graven could be fixed, as he had picked her up one time for possession and she had fixed him for \$2,000.

Q. Did she say where that had taken place?

A. I believe in Seattle.

Q. What else did she say, if anything, and what did you say?

(Testimony of Dr. E. H. Teed.)

A. Then she asked me how much I would pay, and I told her I didn't know, but for her to find out from Graven how much [118] he wanted, and she left the office and returned a little later and said that Graven wanted \$2,500.

Q. What did you say or do about that?

A. I told her I didn't have the \$2,500, but I thought I could get it by one o'clock.

Q. Did you get it? A. Yes.

Q. Where and how did you get it?

A. I went to the bank and cashed a check.

Q. What kind of a check?

A. A cashier's check.

Q. Drawn on what bank?

A. The Spokane & Eastern.

Q. In what amount was the total of the check?

A. \$3,500.

Q. When had you secured that?

A. On April 7th.

Q. Had you secured any other cashier's check in Spokane on that date?

A. I had another check on the First Federal Loan.

Q. In what amount? A. \$3,500.

Q. What was your purpose in securing those cashier's checks on April 7th?

A. I was putting the money into a club. [119]

Q. Where? A. In Couer d'Alene.

Q. But by April 10th you had not used them?

A. No, sir. I had not used the money by April 10th.

(Testimony of Dr. E. H. Teed.)

Q. After you had cashed the check issued by the Spokane & Eastern Bank did you meet Shirley Doores, or not?

A. Yes. I met Shirley about one o'clock or a little after.

Q. And where did you meet her?

A. I met her on the corner of Couer d'Alene Avenue and Fourth Street, in Couer d'Alene.

Q. Was there any reason for meeting her there rather than at your office?

A. She suggested that it would be better if I met her some place instead of out at the office.

Q. Who suggested the place?

A. And I suggested some place around close there, and I thought Couer d'Alene Avenue and Fouth Street would be as good as any place.

Q. Did you walk over there?

A. I drove over.

Q. In your car? A. Yes, sir.

Q. Did you meet her there? A. Yes, sir.

Q. Did she get in the car? [120]

A. Yes, sir. She got in the car and we drove out Fouth Street to the road that leads to Spokane, and I gave her the \$2,500.

Q. In what form?

A. It was in rather large denominations.

Q. The largest the bank had?

A. It was fifties and twenties and possibly a few one-hundred dollar bills.

Q. You gave her \$2,500?

A. Yes, sir; on April 10th.

(Testimony of Dr. E. H. Teed.)

Q. Where did she leave your car?

A. About two miles on the Appleway toward Spokane.

Q. What, if anything, did she say about getting out there?

A. She said she wanted to get out there because she was going to get on the bus at that particular time to meet Graven who would be on the bus, and they were going to Spokane together.

Q. When was the next time you saw Shirley Doores? A. April 11th.

Q. The following day? A. Yes, sir.

Q. What was the conversation with her at that time?

A. She wanted \$1,500 more. She said that Graven had to pay off another narcotic agent, and the clerk that had made out the papers.

Q. How much did she say she had to pay each of them? [121]

A. She said she had to pay the narcotic agent \$1,000 and the clerk \$500, so they would keep still.

Q. And what, if anything, was said in that conversation, as you recall, concerning narcotics or morphine?

A. She wanted—she said Graven wanted 100 grains of—100 tablets of morphine, and fifty grains of Codein and 100 tablets of dilaudid.

Q. What did you do with reference to these requests of Shirley Doores for the \$1,500 and these narcotics?

A. I gave her the money and the narcotics.

(Testimony of Dr. E. H. Teed.)

Q. You gave her \$1,500? A. Yes, sir.

Q. And the narcotics? A. Yes, sir.

Q. In the quantities you have indicated?

A. Yes, sir.

Q. One hundred tablets of morphine and 50 grains of codein and 100 tablets of dilaudid?

A. Yes, sir.

The Court: What papers were you talking about when he said the clerk wanted \$500?

A. I understood it to mean the papers that the clerk had drawn up for my arrest.

The Court: What clerk was it?

A. Some clerk conected with the Narcotics Bureau. [122]

Q. (Mr. Connelly): She was talking about the clerk in the Seattle office? A. Yes, sir.

Q. When did you next see Shirley Doores?

A. On April 12th.

Q. And where did you see her?

A. She came to the office.

Q. And what was your conversation with her?

A. She said that she had to have \$3,500 more to pay off some of the nacotic agents that were probably making this territory.

Q. Who were doing what?

A. Some of the nacotic agents that made this territory.

Q. And what did you do about that?

A. Well, I went to the bank and got \$3,500 and gave it to her.

Q. In what form did you get it?

(Testimony of Dr. E. H. Teed.)

A. I had a check on the First Federal Loan and I got it cashed at the bank in Couer d'Alene in the largest denominations that they had, in fifties and twenties mostly, I think.

Q. You gave those to Shirley Doores?

A. Yes, sir.

Q. Why were you giving her all of this money?

A. Well, it was hush money.

Q. What, if anything, did the possibility of your being [123] arrested and prosecuted have to do with your giving her this money?

A. That was why I gave it to her in the first place, to keep from being prosecuted.

Q. Will you state whether or not you believed she was turning it over to the various narcotic agents of the Treasury Department?

A. Yes, sir; I thought she was.

Q. Now, following this transaction of April 12th, will you tell us what, if any, suggestion Shirley Doores made to you about going away?

A. After I gave her the money she said that Graven thought I ought to leave town for a few days until this kind of blew over.

Q. And what did you say in respect to that?

A. I told her I thought I could leave, and then she wanted to know where I thought I would go, and I told her I thought I would go to Haley, Idaho, and she said she wanted to know where I was going so if something came up she could contact me.

Q. Did you tell her where you would be?

A. I told her to address me General Delivery, Haley, Idaho.

(Testimony of Dr. E. H. Teed.)

Q. Did you go to Hailey, Idaho?

A. Yes, sir. I left April 12th and I went to Hailey, Idaho.

Q. And after you were there did you receive any communication? [124]

A. On April 20th I went to Haley and asked if I had any mail.

Q. Where did you go?

A. To the postoffice. And the clerk gave me a telegram.

Q. I hand you plaintiff's Identification 18, and ask you to tell us whether or not that is the telegram which was delivered to you at Haley on April 20th? A. That is the telegram I received.

Q. Did you put any mark of your own in your own handwriting on the reverse side of that?

A. Yes, sir.

Q. What did you write on it?

A. I put the address she gave me over the 'phone of residence here in Spokane.

Mr. Connelly: I offer this Plaintiff's Identification in evidence.

Mr. Gleeson: We object to it as not being sufficiently identified.

The Court: I will sustain the objection at the present time.

Q. (Mr. Connelly): After you received the telegram at the postoffice at Haley, what did you do?

A. Well, the telegram asked me to call a certain number, one-six—

Q. You cannot go into that now. Tell us what number you called.

(Testimony of Dr. E. H. Teed.)

A. I called 1635 Walnut.

Q. Where? A. Spokane [125]

Q. Whom did you ask for?

A. I asked for Shirley Doores, or Shirley Clayton.

Q. What is that? A. Shirley Clayton.

Q. Do you know who answered the telephone?

A. No, sir. Some woman answered the telephone and I asked her for Mrs. Clayton, and she said that she would call her.

Q. Did Shirley Doores come to the telephone later?

A. She afterwards did; shortly afterwards she came to the 'phone.

Q. What did she say to you over the telephone?

A. She told me to get back to Spokane as fast as I could and get things straightened up by Saturday, as things were going bad, and if I did not get back there and get things straightened up before Saturday I would be picked up.

The Court: You say Saturday. What day was this?

A. That would be the 22nd of April.

The Court: I mean what day of the week. Was it Thursday or Friday, or what day did you talk with her?

A. That was Thursday, the 20th.

Q. (Mr. Connelly): And what did you do after she told you that over the long-distance telephone?

A. I immediately started for Spokane.

Q. Do you know about what time you got to Spokane?

(Testimony of Dr. E. H. Teed.)

A. I got into Spokane about midnight the 21st of April. [126]

Q. In your conversation with Shirley Doores was any address given to you by Shirley Doores as to where she could contact you?

A. Yes, sir.

Q. What was that address?

A. It was 7225 East Carlisle.

Q. I believe you said you wrote that down at that time?

A. Yes, sir. I wrote it on the back of the telegram.

Q. Did you endeavor to locate that address when you got to Spokane? A. Yes, sir.

Q. Did you find it that evening?

A. No, sir. I couldn't find it that evening.

Q. Where did you stay that evening?

A. I stayed at the Pedicord Hotel.

Q. Then on the following day can you tell us whether or not you located Shirley Doores?

A. The following morning I located the address and drove out there and called at the house and saw Shirley.

Q. Was that the address she had given you over the telephone? A. Yes, sir.

Q. And did you talk with her either there or anywhere in the neighborhood?

A. She got in the car and we went to some sandwich stand in the neighborhood there and had a cup of coffee. [127]

Q. And while you were there did you have any

(Testimony of Dr. E. H. Teed.)

conversation with her about this transaction or more money or narcotics or your arrest?

A. While we were there she went to a telephone booth and called Seattle.

Q. Before she went to place the telephone call what did she say she was going to do or whom she was going to contact?

A. She said she was going to contact Graven.

Q. Where? A. In Seattle.

Q. By 'phone? A. Yes, sir.

Q. Did she go to a 'phone booth?

A. She went to a 'phone booth and made a call and after a little bit she came back and said she had contacted Graven.

Q. Did you hear what she said over the telephone? A. I did not.

Q. What further did she report to you or say to you at that time after the 'phone call, what did she say that Graven had said?

A. That he had to have \$6,500 more.

Q. What did she say it was for?

A. To hush the narcotic agent in Seattle by the name of Bangs.

Q. Bangs, the Chief Inspector?

A. Yes, sir. [128]

Q. She used Br. Bangs' name?

A. Yes, sir.

Q. And when did she say Graven had to have that money in Seattle?

A. Graven told he she had to have the money in Seattle by nine o'clock Sunday morning.

(Testimony of Dr. E. H. Teed.)

Q. What did you tell her?

A. I told her I didn't have \$6,500.

Q. What else did you tell her?

A. But I might be able to get it if I could get to the bank.

Q. And then what did you do about getting any money?

A. I called up Couer d'Alene and asked the office girl if she would bring me over \$3,000.

Q. Who was your office girl?

A. Edna Cook.

Q. What, if anything, was said about a delivery of narcotics with this money being required?

A. She said that Graven wanted several hundred grains of morphine, at least 1,000 quarters and some halves.

Q. Half grain tablets of morphine?

A. Yes, sir.

Q. What did you do about that?

A. Well, after I had given her the \$3,000 which the girl brought from Couer d'Alene, why—and she was going to take that to Seattle.

Q. Who was? [129]

A. Shirley. And then I went to Couer d'Alene and got my narcotics blanks—

Q. Your order forms? A. Yes, sir.

Q. By which you purchased narcotics?

A. Yes. And that was on Sunday night, I think, I went after it.

Q. When did you return to Spokane?

A. I returned sometime after nine or ten o'clock after I had been to Couer d'Alene.

(Testimony of Dr. E. H. Teed.)

Q. Now, did you meet Shirley Doores any place on Sunday? A. Yes.

Q. Did you give her any money on Sunday?

A. No.

Q. On Saturday did you give her any money?

A. On Saturday I gave her the \$3,000.

Q. What, if any, arrangements were made about getting the balance of the money to Seattle?

A. The other \$3,500 I did not have; I couldn't get in the bank on Saturday afternoon, and she asked me to wire it to her by Western Union at Seattle.

Q. Wire the money by Western Union?

A. Yes, sir.

Q. To whom? A. To Shirley Doores.

Q. Did you do that? [130] A. No.

Q. When did you next see Shirley Doores after she left presumably for Seattle?

A. Sunday evening she called up the hotel and told me she had gotten back from Seattle, and she would come over to the hotel and tell me what happened in Seattle.

Q. Did she do that? A. Yes, sir.

Q. At your room at the Pedicord Hotel?

A. Yes, sir.

Q. What did she tell you had happened in Seattle?

A. That she had seen Graven and he had told her not to wire any money to Seattle, but to bring it over there and have it there by closing time by Monday.

(Testimony of Dr. E. H. Teed.)

Q. Who was to bring it? A. She was.

Q. What about the narcotics?

A. She was to bring the narcotics.

Q. What did you do after that?

A. Sunday evening?

Q. Yes.

A. That was when I went to Couer d'Alene and got the narcotic order form.

Q. The order form? A. Yes, sir. [131]

Q. What did you do Monday morning with the order form?

A. I filled it out and went to McKesson & Robbins and bought 1,000 quarter-grain tablets and 1,000 half-grain tablets.

Q. Of morphine? A. Yes, sir.

Q. And what, if anything, did you do about getting money for Mr. Bangs that morning?

A. Miss Cook came over to the bank and we got something over \$1,600 from the First Federal & Loan, in the form of a check, and I cashed that at the First National Bank, and then she went to the Spokane & Eastern and drew out \$1,500 there in cash.

Q. Whose money was this in the First Federal and the Spokane & Eastern? A. It was mine.

Q. In whose name were the accounts carried?

A. Edna Cook and Georgie Cook.

Q. Had you given Miss Cook and her mother the money to put in these accounts? A. Yes, sir.

Q. For what purpose? A. Safekeeping.

(Testimony of Dr. E. H. Teed.)

Q. Did you get any other money from Miss Cook which was not your money? [132]

A. Yes, sir. I borrowed \$500.

Q. From Miss Cook? A. Yes, sir.

Q. What did you do with the \$3,500 that day?

A. I took it and gave it to Shirley Doores.

Q. Where did you give her the money?

A. In my room at the Pedicord Hotel.

Q. Do you recall the number of that room?

A. It was 214.

Q. What time of day was that on that Monday?

A. That must have been around eleven o'clock.

Q. In the forenoon or evening?

A. The forenoon.

Q. And what did you do after that?

A. Well, she said that Graven thought It would be advisable if I left town for a few days again, and I left town and returned to Haley, and didn't get back to Couer d'Alene until May 7th.

Q. You left Spokane on the 24th of April and went to Haley, Idaho, and did not come back to Couer d'Alene until the 7th of May?

A. The 7th of May.

Q. When did you next see Graven, Kelly or Shirley Doores?

A. I didn't see any of them until May 16th.

Q. What happened then? [133]

A. Graven came in the office and asked me for \$250, saying he had paid that amount out of his own pocket to two narcotic agents to keep them off of my trail.

(Testimony of Dr. E. H. Teed.)

Q. What did you do about that?

A. And he also asked me for 100 tablets of morphine, saying that he had a man in jail that he wanted to give a few tablets to.

Q. For what purpose?

A. He said if he would give this man a few tablets he could get some more information about Shirley.

Q. What did you do about that? Did you give him the money?

A. I gave him \$125 in the office that morning, and I told him I couldn't get the other until after dinner, and he said he was in a hurry to get back to Spokane, and wanted to know if I would bring the other \$125 to Spokane to him, which I did in the afternoon, and I met him at the Union depot and gave him \$125 and the 100 tablets of morphine, and then he said I had put him to a lot of trouble, and he ought to have twenty dollars for the trouble I had put him to, and I gave him twenty dollars for that.

Q. Did you see him after that?

A. I didn't see him then after that until the 25th of May.

Q. Where did you see him then?

A. They came to my office.

Q. Who? [134] A. Shirley.

Q. Shirley Doores alone?

A. Yes, sir. She came alone first.

Q. How long was she there?

A. She was there probably thirty minutes.

(Testimony of Dr. E. H. Teed.)

Q. What did she talk about while she was there?

A. Oh, she told me if I would cooperate with her she would get me out of all the trouble.

Q. Do you recall anything else she said?

A. She said that Graven was in town and he wanted to see me and she would go down the street and find Graven.

Q. By that time did you know that you had been robbed? A. Yes, sir.

Q. And when she left the office to get Graven to come to your office what did you do?

A. I called the Sheriff in Coeur d'Alene and told him they were in town and they would be in my office.

Q. How long before that day had you learned you had been victimized? A. The day before.

Q. And that was from two Spokane police officers? A. And the Sheriff.

Q. The Sheriff of Coeur d'Alene?

A. Yes, sir.

Q. And when Shirley left, you 'phoned the sheriff? [135] A. Yes, sir.

Q. What did you tell him?

A. I told him Shirley was there in the office.

Q. What did he do?

A. And about probably five minutes later he was over there at the office.

Q. Were they arrested?

A. Yes, sir. They were arrested there in the office.

Q. Shirley Doores and Edward Kelly?

(Testimony of Dr. E. H. Teed.)

A. Yes, sir.

Q. Have you totaled the amount of money you paid over to this woman?

A. It totals up to \$14,270.

Q. In what denominations was the greater portion of this money?

A. The biggest portion of it was in \$100 bills, fifty dollar bills and twenty dollar bills.

Q. Directing your attention to that first day that Kelly used the name of Graven and was at your office, and after he left and Shirley was telling you how she could fix him, do you recall Shirley endeavored to telephone Mike Sanders?

A. She called Spokane and got ahold of Mike Sanders.

Q. Do you know what effort she made to call?

A. She called two or three different places in Spokane before [136] she could get ahold of him.

Q. Then what part of the conversation did you hear? Tell the Court and jury about that.

A. She told this Mike Sanders that he should not have denied that he got the morphine and he should have told them he got the morphine, and that would have cleared everything.

Q. Could you hear anything the other voice said over the 'phone?

A. And this man spoke quite loudly and I could hear a good share of it, and he said and told her not to bother him; that he didn't want her to bring him in it; that he didn't have any morphine, and that he wouldn't have anything, any part of it.

(Testimony of Dr. E. H. Teed.)

Q. What, if anything, did Shirley Doores relate, or did you hear, as to whether or not this purported Mike Sanders had talked with Graven?

A. Well, I can't just remember what she did say about that now.

Q. But do you recall the 'phone call on that day from Shirley Doores to Mike Sanders?

A. Distinctly, yes, sir.

Q. These narcotics you got from the McKesson Company on the 24th you did what with that?

A. I gave it to Shirley and the bottle that contained the 1,000 quarter grains of morphine, and I gave her 400 tablets out of a bottle that contained the half.

Q. And you retained the rest? [137]

A. Yes, sir.

Mr. Connelly: You may cross-examine.

The Court: Do you offer the telegram now?

Mr. Connelly: Yes, I was going to offer it.

The Court: It may be admitted.

(Telegram admitted in evidence as plaintiff's exhibit 18.)

[Printer's Note]: Set out in full at page 18 of of original reporter's transcript.

Cross Examination

By Mr. Gleeson:

Q. I take it, Doctor, that the first time you saw Shirley Doores was the date of the first prescription here, December 30th?

A. No. I saw he once before that.

(Testimony of Dr. E. H. Teed.)

Q. How long before?

A. I think about the day before. I just gave her the hypo the first time she came in.

Q. You think that was the day before?

A. I think so. It might have been the previous day, but I think the day before.

Q. In any event, whenever it was you gave her this hypo was the first time you ever saw her?

A. Yes, sir.

Q. And as far as you knew at that time then she was entitled to it? [138]

A. I figured that she was, yes, sir.

Q. And did you ask her who had treated her for her spinal injury?

A. Yes, sir.

Q. Did she tell you?

A. She told me some doctor in Okanogan had taken care of her when she had the accident.

Q. Did you ask her why she didn't go to any doctor in Spokane?

A. No. She said the accident happened up there in that civinity, and——

Q. The vicinity of Okanogan?

A. Yes, sir.

Q. I note you have her address as Pacific Hotel, Spokane.

A. Yes, sir. That is the address she gave me.

Q. You understood that to be her residence?

A. Yes, sir.

Q. Understanding that to be her residence, did you ask her why she did not go to some doctor in Spokane?

(Testimony of Dr. E. H. Teed.)

A. I don't know whether I did or not. I probably did.

Q. That would be a natural inquiry?

A. Yes, sir.

Q. And you don't recall whether you asked her that or not? A. No, sir.

Q. That was the time you gave her the hypo—at the time you [139] gave her the prescription a day or so later, December 30th, did she tell you she had come up from Spokane then?

A. She didn't say where she came from.

Q. Did you ask her whether she stayed at Coeur d'Alene?

A. Yes, sir. I asked her if she stayed at Coeur d'Alene and she said no; she had a room at the Pacific Hotel for quite a while, she said.

Q. Did you ask her how she happened to be in Coeur d'Alene? A. No.

Q. Or whether she came there particularly to get this prescription from you?

A. I didn't ask her.

Q. Did you on that occasion ask her why she had not obtained the prescription from a doctor in Spokane? A. No.

Q. Did you know at that time she was a narcotic user?

A. I wasn't sure. She said this doctor in Okanogan had been giving her morphine off and on for pain caused by the injury, and he was out of town, and she couldn't contact him.

Q. Okanogan is quite a distance from Spokane, you knew that?

(Testimony of Dr. E. H. Teed.)

A. I didn't know just where Okanogan was.

Q. Living in Spokane you at least knew that Coeur d'Alene was in the opposite direction, and that there were plenty of physicians in Spokane?

A. Yes, sir. [140]

Q. Who would treat one with a legitimate injury?

A. Yes, sir.

Q. Did you make any examination of her person?

A. I did.

Q. To what extent?

A. To see if I could find any evidence of injury.

Q. Did you make an examination of her person to determine whether or not you could find evidence that indicated whether or not she was a user of narcotics?

A. I didn't notice any.

Q. Did you look for them?

A. Not particularly.

Q. Now for an injury to the back, a spinal injury such as she had, under ordinary circumstances what would your prescription be?

A. Ordinarily if there was no pain, probably a local application would be prescribed.

Q. A local application of what?

A. Heat or massage or probably some kind of an ointment.

Q. Did you prescribe anything like that?

A. I told her to apply heat to it.

Q. When did you do that?

A. The first time I examined her.

Q. That was when you gave her the hypodermic?

A. Yes, sir. [141]

(Testimony of Dr. E. H. Teed.)

Q. Did you make any subsequent examination?

A. No, sir.

Q. In your examination to determine whether or not she had suffered a spinal injury, did you reach any determination?

A. The only evidence I could find was considerable pain on motion and pressure.

Q. In what part of the spine?

A. That is in what we call the lumbar region.

Q. And what part of the spine is that, generally?

A. Below the ribs and above the pelvis.

Q. For pain of that sort you ordinarily prescribed quarter grains or half grains?

A. It depended on the amount of pain.

Q. You cannot determine that except from what the patient tells you? A. That is correct.

Q. And from these first couple of experiences—of course, you had only her word for it?

A. Yes, sir.

Q. And you did prescribe them in your first prescription, Exhibit 4. Will you tell me how much that is? A. Twenty.

Q. Twenty tablets to be taken when?

A. As often as required for pain.

Q. How long should that last under ordinary circumstances? [142]

A. Oh, it might last two or three days and it might last a week.

The Court: You mean the twenty tablets?

A. Yes, sir. That would depend on the amount of pain a person has.

(Testimony of Dr. E. H. Teed.)

Q. (Mr. Gleeson): In anyevent, there were twenty tablets on the first one and that you understand would last from two days to a week?

A. It is had to tell.

Q. Is that true of a person who was not a user of narcotics?

A. Yes, sir.

Q. How long prior to that time did she claim to have had the injury?

A. One or two months, I don't remember which; but it had been quite a while.

Q. Did she tell you how much she had been using during that period to alleviate the pain?

A. I don't recall that she did. When I gave her the hypo she signified that would be enough to relieve her for the time being.

Q. In any event, on that date you were not suspicious?

A. No, sir.

Q. And she came back two days later on January 1st. This first one was half grains?

A. Yes, sir. [143]

Q. And then the next time those are half grains again?

A. Yes, sir.

Q. How many tablets?

A. Forty.

Q. At that time when you gave her the half-grain tablets did you ask her if she had sought any treatment in Spokane?

A. No, sir.

Q. At that time was there any suspicion in your mind that she might or might not be a user?

A. I figured at that time she was getting used to morphine.

Q. Getting used to it by reason of her injuries?

(Testimony of Dr. E. H. Teed.)

A. No—well, the length of time she had been using it dating from the injury, being a month or two months, she was getting used to morphine.

Q. When you administered the hypodermic did you make her the usual office charge?

A. Yes, sir.

Q. What was that?

A. Two dollars and fifty cents.

Q. And on your second charge, on January 1st, what was the charge at that time?

A. Two dollars and fifty cents.

Q. And what— A. Each was \$2.50.

Q. Each prescription? [144] A. Yes, sir.

Q. You never made any variation in the charge at all? A. No, sir.

Q. Did you sell her any narcotics directly?

A. No, sir.

Q. Did you deliver her any narcotics directly?

A. Yes, sir.

Q. Other than those referred to in these prescriptions? A. No, sir.

Q. When you delivered them to her personally how did you do that?

A. I wrote the prescription and gave it to her and she gave me back the prescription and asked if I would go to the drugstore and get it filled.

The Court: When was that?

A. That started about the time I began writing for Mike Sanders, around the 24th or 30th of January.

(Testimony of Dr. E. H. Teed.)

The Court: Were not all the prescriptions after you started writing for Mike Sanders, in the name of Mike Sanders—there were no Shirley Doores prescriptions after that time?

Mr. Connelly: No.

Mr. Gleeson: After he started with Mike Sanders that is the way they were all written. [145]

Q. (Mr. Gleeson): In any event, on the 24th when you started to write for Mike Sanders, you never gave Shirley Doores or Velma Rock any further prescriptions for herself? A. No, sir.

Q. You knew that she was requiring it for her injury?

A. Up to that time she was supposed to.

Q. At that time did you reach a determination that she was a user?

A. Yes, sir. I was pretty sure she had formed the habit.

Q. And you knew these prescriptions were for her?

A. No, sir. I was under the impression they were for this man she was telling me about.

Q. Did she ask for any narcotics for herself?

A. No, sir.

Q. Did you make any inquiry where she was getting her narcotics to treat her injury?

The Court: By that time he knew there was not an injury.

Mr. Gleeson: He said he began to be suspicious.

A. The only inkling I had that Mike could not have been getting all of them was, I told her I

(Testimony of Dr. E. H. Teed.)

thought Mike was using quite a lot, and she said "Well, he gives me a few once in a while."

Q. (Mr. Gleeson): Up to the time you stopped writing for her she had sixty half-grain tablets in about a month? [146] A. Yes, sir.

Q. And after you refused to give her any more of them in April, on April 8th, was the last one, as far as you knew then the only morphine she was getting was whatever little Mike Sanders permitted her to have? A. Yes, sir.

Q. Did you make any investigation as to whether or not her name was Velma Rock?

A. No, I didn't.

Q. Did you require any identification from her?

A. She showed me her billfold with the name Velma Rock in it.

Q. When was that?

A. When she first came.

Q. When did you first learn her name was not Velma Rock?

A. Oh, I don't remember just when that was, but it kind of seemed to me it was around the first of March.

Q. How did you happen to find that out?

A. She wrote something on a paper or an envelope and I saw she had Shirley Clayton on it, and I asked if she was going by more than one name, and she said yes, that she went by the name of Shirley Clayton.

Q. Now you say, I take it, that these prescriptions you made out in the name of Mike Sanders

(Testimony of Dr. E. H. Teed.)

you delivered to her, on at least part of them she returned them to you [147] and you took them down to the drugstore and had the prescription filled?

A. Yes, sir.

Q. When you do that you have to sign for them at the drugstore? A. Yes, sir.

Q. Whose name did you sign?

A. My own.

Q. Did you at any time sign Mike Sanders by yourself, or Mike Sanders individually, or any other name? A. No.

Q. On the occasions when you did that, what charge did you make in addition to the \$2.50 for the prescription?

A. Just what the druggist charged for the morphine.

Q. Have you any way of determining from these prescriptions we have before us which of those you had filled yourself?

A. They should have my name on the back.

(Short recess.)

Q. (Mr. Gleeson): Now, Doctor, did you have an opportunity to segregate those during recess?

A. Yes.

Q. The exhibits 13, 12, 10, 9, 8 and 7, then, are ones that you yourself took to the drugstore and had filled? A. Yes.

The Court: Is that right? [148]

A. Yes.

The Court: That is six of them.

(Testimony of Dr. E. H. Teed.)

Q. (Mr. Gleeson): Now, Doctor, what was the reason for that—I mean, for your taking them down yourself rather than having Shirley take them down?

A. She was afraid if she took them down they wouldn't fill them.

Q. Did she tell you why?

A. No. I suppose because they had refused her.

Q. Had they refused her?

A. I don't know.

Q. Had she reported to you that they had refused her? A. No, sir.

Q. There are two drugstores. The first time—you took them all to Hart's Drugstore. Was there any reason for that, any particular reason?

A. No, sir; I just happened to, I guess.

Q. Which is closer to your place of business?

A. I think there is only ten feet difference.

Q. In any event, are you able to tell now from these six prescriptions you had filled yourself what charge you made her for those narcotics?

A. No, sir; I don't remember, but I think it was in the neighborhood of about six cents a tablet.

Q. Is that the average going price? [149]

A. I don't know.

Q. Was it at that time? A. I don't know.

Q. How did you arrive at six cents?

A. I didn't. That was the druggist's charge.

Q. That was the druggist's charge less your discount? A. I didn't get a discount.

(Testimony of Dr. E. H. Teed.)

Q. As an accomodation to Shirley you got the prescriptions filled and brought them back and she paid you a certain price the druggist charged you, plus \$2.50 for the prescription?

A. Yes, sir; exactly.

Q. Do these prescriptions indicate on the face how many tablets they call for?

A. Yes, sir.

Q. Where is that indicated?

A. Right here (indicating).

Q. The L-50? A. Yes, sir.

Q. Tell us what they are?

A. In writing prescriptions we use the Roman numerals and I means one and II means two and III means three and IV means four and X means ten and XX means twenty, and XL is forty and L is fifty, C is 100 and D is 500. Do you wish me to read it? [150]

Q. If you will give us the items we can do our own addition.

A. One for 50, another for 50, another for 100, another for 100 and another for 80.

Q. Those are half or quarter grains?

A. The first two are for half grains, 50 tablets each, and the other one is 100 quarter grains, and the next is quarter grains, 100 tablets, and the next was quarter grains, 80 tablets, and the other is 1/20 grains dilaudid, and the next is 50 tablets half-grain, and the next is 40 tablets half-grain, and the next is 200 tablets one-quarter grains, and the next is 200 tablets one-quarter grains, and the next is

(Testimony of Dr. E. H. Teed.)

one-sixteenth grains dilaudid, 100 tablets of dilau-
did, one-twentieth, and the next is 100 tablets one-
sixteenth grain dilaudid, and the next is 60 tablets
half-grain, and the next is 50 tablets half-grain.

Q. Is "dilaudid" the word you used there?

A. Yes, sir; dilaudid.

Q. What was the reason for the varying in the
prescriptions, when they are not the same?

A. Dilaudid is a different preparation from mor-
phine, but it is a narcotic.

Q. Was there any particular reason for chang-
ing from the regular half and quarter grain tablets
of morphine to this dilaudid? [151]

A. I think the only reason was that she asked
for dilaudid instead of morphine.

Q. You mean Shirley did? A. Yes, sir.

Q. You never saw Mike Sanders?

A. No, sir.

Q. Or made any investigation to determine
where he lived? A. No, sir.

Q. Did you see or did anyone present to you
any instrument or any diagnosis or anything to show
that he had a case of syphilitic ulcers?

A. I just took Shirley's word for it.

Q. That was at a time that you had reached the
conclusion she was probably a narcotic addict?

A. Yes, sir.

Q. Now, did you request Shirley to furnish you
with any specific information with regards to this
Mike Sanders? A. No, sir.

(Testimony of Dr. E. H. Teed.)

The Court: Do you want my totals? 300 half-grains, 500 one-quarter grains, 100 one-twentieth dilaudid, and 200 one-sixteenth dilaudid.

Q. (Mr. Gleeson): Would that be a considerable amount for the period covered for a man with these ulcers that she claimed that he had?

A. It is a pretty good amount, but I wouldn't say it was [152] excessive.

Q. During that entire period of time up to the 4th or 8th, whenever it was that you quit prescribing, did Shirley request any prescription from you for herself? A. No, sir.

Q. Did you furnish her any prescriptions for herself? A. No, sir.

Q. Did you administer any hypodermic treatment to her during that period other than the first one? A. Yes, sir.

Q. On how many occasions?

A. Two, I think.

Q. When were those?

A. I don't remember when those were.

Q. When to your best recollection?

A. They were I think in January. They were not for morphine.

Q. What were they?

A. They were bismuth.

Mr. Connelly: I move to strike that as immaterial. Bismuth is not a narcotic.

The Court: I will deny the motion.

Mr. Connelly: May it be understood that bismuth is not a narcotic?

(Testimony of Dr. E. H. Teed.)

Q. (Mr. Gleeson): Is it? A. No, sir.

[153]

Q. What did you administer it for?

A. It is one of the treatments to give folks for syphilis.

Q. Had you prescribed it for Mike Sanders?

A. No, sir.

Q. Had you prescribed anything for Mike Sanders other than these narcotics? A. No, sir.

Q. Did you make any inquiry from Shirley Doores as to why this man Sanders was not getting his prescriptions from his own local doctor?

A. Yes.

Q. What did she tell you?

A. She told me he had been getting it at Sandpoint and the doctor up there had got peeved at him and wouldn't give him any more.

Q. Did she tell you who the doctor was?

A. I don't think she did.

Q. Did you ask her?

A. I don't think so.

Q. Did you make any inquiry of your own?

A. No, sir.

Q. Where is Granite, Idaho?

A. About half way between Sandpoint and Coeur d'Alene on the main highway and about six miles north of Farragut.

Q. Did you have any patients of your own in that vicinity? [154]

A. Not at that time.

(Testimony of Dr. E. H. Teed.)

Q. In any event, you made no independent investigation of any kind to determine anything about Mike Sanders? A. No, sir.

Q. I believe you testified you did give Kelly 100 tablets of half-grain morphine?

A. You mean personally to Kelly?

Q. That is what I understood.

A. I think those were quarter grain. That is on the date that he came to Coeur d'Alene and wanted \$250.

The Court: On May 16th?

A. Yes, sir.

Q. (Mr. Gleeson): Did you ever at any other time give him any narcotics? A. No, sir.

Q. Did you ever at any time give him a prescription for narcotics? A. No, sir.

Q. Or administer any hypodermic to him?

A. No, sir.

Q. Did you ever at any time give Wesley Doores any prescription for narcotics? A. No.

Q. You know him? A. I do now. [155]

Q. When did you first meet him?

A. I met him sometime between the 16th of May and the 25th of May. I don't recall what day.

Q. At that time did you give him any narcotics?

A. Well, yes and no.

Q. Please explain your answer.

A. He brought a letter supposed to be from Graven, asking me to give him a hypo.

Q. Did you keep the letter?

A. I think I turned it over to the court.

(Testimony of Dr. E. H. Teed.)

Q. Is that the only time?

A. Well, I gave him a half-grain tablet and he took the hypo himself.

The Court: There in your office?

A. Yes, sir.

Q. (Mr. Gleeson): Is that the ordinary or usual dose?

A. It is I think what you would call the average dose.

Q. Was there any reason given by him or in the letter as to why he needed it?

A. I don't remember what the letter said any more except that it just asked me if I would give him a hypo.

Q. What kind of a letterhead was it written on?

A. I don't think it had any letterhead.

Q. Was it written in pencil or ink?

A. I think ink. [156]

The Court: You said the average dose——

A. For a person in pain.

The Court: When you go to the hospital to perform an operation and a hypodermic injection is given preceding the operation, how large a dose is that?

A. It depends upon the person and the age of the person and how long the operation is going to last. It runs all the way from one-eighth or one-sixteenth to a quarter or a half. Seldom more than a half grain.

Q. (Mr. Gleeson): Under those circumstances you say it depends on the age whether you give a

(Testimony of Dr. E. H. Teed.)

quarter or a half grain or some variation in between, and that is not administered more than about how many times a day?

A. Before an operation usually one, and they usually put in a little stripine with it.

Q. But there is a maximum, is there not, of the amount of narcotics that the doctor would give to one who is not an addict without some bad effect?

A. That depends considerably on how much his pain is. If you are having a lot of pain you can stand more morphine than if you are just administered it for sedative purposes.

Q. But we were talking about a person who had been injured a month or two before and the pain was more or less a permanent thing.

A. The more they take the more they have to have to get relief. [157]

Q. But they progressively require more and more until they finally become an addict?

A. Yes, sir. And a person that is an addict will use as high as ten or twelve or fifteen grains a day.

Q. I will offer you Exhibit—Defendant's Exhibit "A", for identification, and ask you if that is the note you refer to?

A. Yes, sir; that is the one I referred to.

Q. As coming from—the authority under which you gave the narcotic to Wesley Doores?

A. Yes, sir. That was supposed to be from the Narcotic Agent.

Mr. Gleeson: We offer Defendant's Exhibit for identification "A" in evidence.

(Testimony of Dr. E. H. Teed.)

Mr. Connelly: No objection.

The Court: It may be admitted.

(Letter admitted in evidence as Defendant's Exhibit "A".)

[Printer's Note]: Set out in full at page 81 of original reporter's transcript.

Mr. Gleeson: I would like to read it to the jury.
(reading exhibit "A" to the jury)

Q. Had you had some previous conversation with Mr. Graven or Mr. Kelly about a Mr. Emory?

A. No, I had not.

Q. Had you had any previous conversation with Mr. Graven or Mr. Kelly about administering narcotics to anybody outside of this Mike Sanders?

[158]

A. The only conversation I had had with Kelly was at the time I gave him the 100 tablets of morphine; he said he wanted it to give to some man he had in jail.

Q. That was May 16th? A. Yes, sir.

Q. And this was May 24th?

A. And that is why I think he referred to the man he spoke to me about. He didn't mention any names when he talked to me.

Q. Did you make any examination to see if the man needed any treatment other than narcotics?

A. No, I did not.

Q. Did you make any examination of him at all?

A. No, sir.

(Testimony of Dr. E. H. Teed.)

Q. You just asked what he wanted?

A. That is correct.

Q. With reference to this Mr. Graven, as I get it, when he came to your office on April 10th, the first you knew of him, he walked in the door?

A. Correct.

Q. And Shirley had been in your office a half an hour or so?

A. Twenty minutes to half an hour.

Q. From the time she came in first until Mr. Graven walked in the door, had she left your private office?

A. Not that I recall. [159]

Q. That was the time you refused to give her any further prescriptions?

A. Yes, sir.

Q. Up to that time you had not refused her?

A. No.

Q. The previous one was April 4th?

A. April 8th.

Q. And did you give her any reason for refusing to give her any further prescriptions at that time?

A. Yes, sir. I told her I thought that they were going too strong.

Q. What did you mean by "they"?

A. Whoever was getting these prescriptions was using too much.

Q. And did she ask you for some for herself?

A. No, sir.

Q. Did either of you make any suggestion the prescriptions you had issued should be issued in her name?

(Testimony of Dr. E. H. Teed.)

A. I don't recall there was any suggestion made then.

Q. In any event, you did not do so?

A. No, sir.

Q. Did you furnish her any narcotics yourself at that time? A. No, sir.

Q. Did you have any there in your office? [160]

A. No, sir.

Q. At any time during this period from about January 1st or December 30th on, did you ordinarily carry any narcotics in your office?

A. No, sir; I never keep any narcotics in the office.

Q. You never have any narcotics in your office?

A. No, sir.

Q. Did you write a prescription for Wesley Doores at the time you administered to him as Mr. Emory? A. No.

Q. Where did that tablet come from?

A. I had it in my pocket.

Q. Did you usually carry a tablet of that sort in your pocket? A. I carry a few.

Q. What do you mean by a few?

A. Oh, five or six or eight or ten.

Q. That is your constant practice?

A. Yes, sir.

Q. I believe you said at one time during the course of these trips you bought 1,000 quarter grains from McKesson and gave 400 to Shirley and kept 600? A. Yes, sir.

(Testimony of Dr. E. H. Teed.)

Q. Had you kept a quantity that large before?

A. No, sir.

Q. Had you previously purchased in quantity from McKesson? [161]

A. I think that is the first purchase I ever made from McKesson.

Q. Is that the first purchase you ever made from any wholesaler?

A. No, sir. I had made a purchase, I think in September or October, of 100 quarter-grain tablets or half-grain tablets, I don't remember which, from one of the other drug houses, either Park-Davis or Eli.

Q. I mean, from December 30th on.

A. No, sir.

The Court: Where did you keep your narcotics you said you did not keep in your office? You must have had more than five or ten around. Every doctor should have morphine in case he came upon an accident.

A. I never kept any morphine to speak of. This is the way I carry them (indicating).

Q. (Mr. Gleeson) From what source did you replenish your supply?

A. I think the only source I replenished my supply from was the small amount I bought occasionally from the wholesalers.

Q. You did not buy from the wholesalers in quantity? A. No.

Q. Where did you keep your supply?

(Testimony of Dr. E. H. Teed.)

A. I carried them in my pocket. [162]

Q. In any event, you say you bought 100 from the jobber or wholesaler? A. Yes, sir.

Q. And you carry eight or ten on your person?

A. When I had—the bottle I first bought with 100, I carried it in my pocket, and as I used those I got a smaller bottle and carried it in my pocket.

Q. When you got down to eight or ten you bought another bottle? A. Yes, sir.

Q. Now, as far as this man Graven is concerned, the first thing you knew he walked in the door, and that was when you came out to the patients in the office?

A. Yes, sir. There were two or three or maybe four patients in the office.

Q. And did they continue to wait?

A. Yes.

Q. Did Shirley introduce this man in their presence?

A. No. She came in the private office and shut the door and did the introducing.

Q. And she said he was a Federal Narcotic Agent from Seattle?

A. Yes, sir. He walked right in and announced he was a Federal Narcotic Agent.

Q. And he said "Hello, Shirley; what are you doing here"? A. Yes, sir. [163]

Q. And Shirley left? A. Yes, sir.

Q. When he first introduced himself did he say who he was?

(Testimony of Dr. E. H. Teed.)

A. Yes, sir. He said "I am Mr. Graven, from the narcotic office in Seattle."

Q. And after he had introduced himself you say that Shirley introduced him all over again?

A. Yes, sir.

Q. What did she say?

A. She said "This is Mr. Graven, the narcotic man from Seattle."

Q. She virtually repeated his words?

A. Yes, sir.

Q. And he pulled out his identification?

A. Yes, sir.

Q. Did he offer it to you? A. No, sir.

Q. Did you ask for it?

A. No, sir. I didn't ask him.

Q. How was it carried?

A. He took it out of his inside pocket and pulled it out like this (indicating) and said "Here is my identification."

Q. He pulled it halfway out? A. Yes, sir.

Q. You have seen identifications of federal officers before? [164]

A. Yes; but I didn't ever pay any particular attention to them.

Q. In any event, you made no request to see his identification? A. No, sir.

Q. You never did at any time? A. No, sir.

Q. Did you ever make any inquiry of your own to determine whether there was such an agent?

A. I had heard there was a federal agent by that name.

(Testimony of Dr. E. H. Teed.)

Q. When?

A. Oh, I don't know when, but sometime before that.

Q. Did Shirley finally tell you there was no such person as Mike Sanders? A. No.

Q. Is it not a fact, sir, that she did tell you during the course of your writing these prescriptions that there was no such person as Mike Sanders, and you continued the practice of writing prescriptions in the name of Mike Sanders, a fictitious person, and you knew it would end in trouble for you?

The Court: That is an awfully involved question.

Mr. Gleeson: I will break it down.

Q. Is it not a fact that during the period you were writing prescriptions in the name of Mike Sanders that Shirley [165] Doores advised you that it was a dangerous thing to do, and that there was no such person as Mike Sanders, and that writing prescriptions in the name of a fictitious person you would get yourself involved in trouble?

A. I don't recall any such conversation as that regarding Mike Sanders, but she did mention that if a person wrote a prescription in the name of somebody that didn't exist why there was a good chance for trouble.

Q. She told you that after you had written the prescriptions in the name of a man you never had seen?

A. I don't know whether it was after I began doing that or before.

(Testimony of Dr. E. H. Teed.)

Q. It might have been before you started writing prescriptions for Mike Sanders?

A. It might have been, but I knew that already, anyway, that writing prescriptions for a fictitious person was dynamite, and I never did it to my knowledge.

Q. But even knowing that, you still make no investigation to determine who Mike Sanders was?

A. Except taking Shirley's word for it.

Q. Well, after Shirley came back, Graven identified himself and Shirley left, and you had some conversation with him?

A. Yes, sir.

Q. And he told you he had a warrant for you in his pocket?

A. Yes, sir. [166]

Q. But he did not serve it then, and he said he would not until he communicated with Seattle?

A. Correct.

Q. Did you ask to see the warrant?

A. No, sir.

Q. Did you ask who issued it or from what court it was issued?

A. I took it from what he said, it was issued by the Narcotics Bureau in Seattle.

Q. And did you make any investigation to determine whether or not there was any warrant issued in Coeur d'Alene?

A. No.

Q. You knew there was a Federal Court in Coeur d'Alene?

A. It wasn't in session.

Q. But that is one of the places where the Federal Court of that district holds court?

A. Yes, sir.

(Testimony of Dr. E. H. Teed.)

Q. You have lived in Coeur d'Alene for eighteen years? A. Yes, sir.

Q. And you have been a practicing physician there during that period? A. Yes, sir.

Q. Did you ever testify in that court?

A. Yes, sir.

Q. I refer to the Federal Court.

A. No, sir; I never testified in Federal Court that I know of. [167]

Q. What other trappings did this man Graven have to identify him?

A. The only other thing he had was a briefcase he had some papers in.

Q. What kind of papers?

A. Some of it looked—they were yellow and some white.

Q. Did he open them up? A. Partially.

Q. To get some papers?

A. I don't know what the occasion was for him partly opening it, unless it was just to show that he had some papers.

Q. The warrant was in his pocket, he said?

A. Yes, sir.

Q. Did he offer you any badge or star?

A. No, sir; he didn't.

Q. Did you ask to see any badge or star?

A. No, sir; I didn't.

Q. Did you ask him where his office was?

A. No, sir.

Q. Or how you could get in touch with him?

A. No, sir.

(Testimony of Dr. E. H. Teed.)

Q. Did you make any effort to get in touch with him at any time? A. No.

Q. Did you talk to anyone in an attempt to get in touch with him? [168]

A. Except when I asked Shirley to find out from Graven how much he wanted for a pay-off.

Q. Did you make any effort to determine the name of this man was actually Graven?

A. I had no way of finding out.

Q. Did you keep a record of the serial numbers of bills that you turned over to Shirley?

A. I did not.

Q. You knew that bills had serial numbers, did you not? A. Yes, sir.

Q. Did you keep any description of any kind of the bills so that they might be identified?

A. No.

Q. Did you keep any record any place of the amount of money you turned over?

A. No written record.

Q. At the time this man came back to you, Kelly or Graven, I guess the next time was May 16th?

A. Yes, sir.

Q. At that time did he offer any identification?

A. No, sir.

Q. Did he have any briefcase with him?

A. No, sir.

Q. How did he make entry to your office at that time?

A. Why, I think at that time he came there

(Testimony of Dr. E. H. Teed.)

was nobody in the [169] office, and he just came right in.

Q. Do you recall what time of day it was?

A. It was in the forenoon.

Q. And that was when he wanted the \$200 or the \$250? A. Yes, sir.

Q. And that was a rather inconsiderable amount in view of what you had been paying?

A. Yes, sir.

Q. Did it make any impression on you in that way? A. No, sir.

Q. Did you say "Why, I just gave you \$14,000"?

A. No, sir. The only explanation that was given was that these two narcotic men he was trying to head them off, and so he gave them \$250 out of his own pocket.

Q. After you had paid better than \$14,000?

A. Yes, sir.

Q. Within the period of a few weeks?

A. Yes, sir.

Q. Did you say anything about this \$14,000 at that time? A. No, sir.

Q. Was there any reason for not mentioning it?

A. I don't think there was any reason for not mentioning it, and probably there was no reason for mentioning it.

Q. At any time during that discussion did the matter of the amount you had paid him previously come up? [170]

A. I believe that there was something said at that time how much I had paid Shirley.

(Testimony of Dr. E. H. Teed.)

Q. Are you certain of that?

A. I am not quite clear, but I believe he did ask me how much I had paid her.

Q. Do you recall what you replied?

A. If I answered him at all, I told him. I told him how much I had paid.

Q. You mean you don't know whether you answered him or not? A. I am not sure I did.

Q. Do you recall him making any expression with reference to the amount you claim to have paid?

A. The only think I recall is he did say that he had only gotten \$500.

Q. Out of the \$14,000? A. Yes, sir.

Q. Did you take that up with Shirley?

A. No.

Q. Did you ever take it up with Shirley?

A. No.

Q. You never asked Shirley to account for the difference?

A. No, sir. I didn't get to see Shirley after that.

Q. Shirley was there on the 25th, was she not?

A. Yes, but I was not discussing anything with her about it at that time. [171]

Q. Did you make any attempt to get in touch with Shirley? A. No, sir.

Q. You did not know there was anything wrong with it until the 24th? A. Yes, sir.

Q. And when you knew on the 16th out of this \$14,000-odd that was intended for Graven, he had

(Testimony of Dr. E. H. Teed.)

received only \$500, did you make any attempt to get in touch with Shirley between the 24th and that time to determine what she had done with the balance? A. No, sir.

Q. You knew where she lived?

A. Yes, sir.

Q. Were you in Spokane during that period?

A. No.

Q. After this \$6,500 was paid in the latter part of April, you went back to Haley, Idaho?

A. Yes, sir.

Q. Where is Haley?

A. It is in southern Idaho in Blaine County, twelve miles below Sun Valley.

Q. About how far from Coeur d'Alene?

A. Six hundred miles.

Q. And you came back on May 7th?

A. Yes, sir. [172]

Q. And by that you mean you came to Coeur d'Alene? A. Yes, sir.

Q. Did you make any attempt to get in touch with Shirley after that? A. No, sir.

Q. And prior to May 25th, the last time you saw Shirley was on about April 24th?

A. Yes, sir.

Q. Do you recall when you were last at her house?

A. The only time I was out to her house was on the 22nd of April.

Q. That was about what time of day?

(Testimony of Dr. E. H. Teed.)

A. That was in the morning, probably around 9:00 or 9:30.

Q. And she immediately took you over to some local sandwich place? A. Yes, sir.

Q. How long were you in the house?

A. I wasn't in the house. I waited in the car until she got dressed.

Q. Did you see anyone in or about the house at all? A. No, sir; except her.

Q. Did you knock at the door?

A. Yes, sir. And she opened the door probably two or three inches, and told me she would be out as soon as she got dressed. [173]

Q. And that was when she wanted the \$6,500?

A. Yes, sir.

Q. And she never discussed the matter with you about the house at all? A. No, sir.

Q. And at the door there was no conversation at all except to say that she would be out in a few minutes? A. Yes, sir.

Q. After she left the sandwich booth where did she go?

A. I don't remember. I think I took her back partly within two or three blocks of the house, and then I went on down town.

Q. Was there any reason why you did not take her all the way to the house?

A. She asked me to drop her off before we got to the house.

Q. And she asked you to drop her off a couple of blocks from her house? A. Yes, sir.

(Testimony of Dr. E. H. Teed.)

Q. And you kept on going and she walked on home? A. Yes, sir.

Q. Was there anyone there to meet her?

A. I didn't see anybody.

Q. This 'phone call from this public booth was on what day?

A. That was on Saturday morning.

Q. And do you know where this sandwich counter was? [174]

A. I don't think I could locate it.

Q. Was there anything about it that impressed you so you could identify it?

A. No, sir. The only thing I recall about it was it was on Trent.

Q. Do you know where the highschool is there—was it near **that**?

A. I don't remember whether it was close to the highschool or where it was, but it seems to me like it was on Trent and close to where she lives there, around Millwood.

Q. How big a place was it?

A. It wasn't a very big place. They had a conuter and some booths.

Q. And you say there was a telephone in a booth?

A. There was a telephone there. I think it was in a booth.

Q. You mean a regular telephone booth where you go in and lock yourself in?

A. I think so.

Q. Do you recall that definitely?

(Testimony of Dr. E. H. Teed.)

A. No, I don't.

Q. You are sure it was not out on the counter or over by the cash register?

A. I am pretty sure it was in some kind of an enclosure.

Q. Were you able to see her?

A. Not from where I was. [175]

Q. Were you in one of the booths or at the counter? A. I was in a booth.

Q. Were you facing her or did you have your back to her?

A. I don't remember about that, which way I was facing in the booth.

Q. Did you see Shirley go to the 'phone?

A. I saw her going toward what was supposed to be the 'phone.

The Court: Do you know whether there was a 'phone there?

A. Yes, sir; there was some kind of a 'phone there.

Q. (Mr. Gleeson) You are sure of that?

A. Yes, sir.

Q. And you saw the 'phone yourself?

A. I am pretty sure I did.

Q. Do you know whether it was in front or in the back of the place?

A. It seems to me like it was kind of in the center where the cashier's counter was, or whatever they had there.

Q. That was where the booth was?

A. Yes, sir.

(Testimony of Dr. E. H. Teed.)

Q. A regular telephone booth?

A. I think so, yes.

Q. In any event, you think you saw a 'phone there? A. Yes, sir.

Q. But Shirley told you, anyway, she was going to 'phone? [176] A. Yes, sir.

Q. Do you recall how long she talked?

A. It must have been ten minutes at least.

Q. Did she have to wait for the call or did she stay there while the call went through?

A. She stayed there until it went through.

Q. Do you know how she paid for the long-distance call? Do you know whether it was a pay 'phone? A. No, sir.

Q. Do you know whether it was a wall 'phone?

A. No, sir.

Q. Or an ordinary desk 'phone?

A. I don't know.

Q. Do you know whether she notified the proprietor she was going to place a long-distance telephone call? A. I don't know that.

Q. Do you know whether she paid the proprietor or anyone else for the use of the 'phone afterwards? A. No; I don't recall.

Q. Do you recall who served you, a man or a woman, or a girl? A. A girl.

Q. Do you know what she served you?

A. Coffee.

Q. Well, was there any reason given by Shirley for not talking with you in her own home when you first came? [177]

(Testimony of Dr. E. H. Teed.)

A. Yes, sir. She said her sister-in-law, I believe, was there, and she didn't want her to listen in.

Q. Her sister-in-law?

A. I believe that is who she said was there.

Q. Did she give you any reason for not having you bring her back to the house?

A. No, sir. She just asked if I would drop her off before we got to her house.

Q. Did she tell you who her sister-in-law was?

A. No.

Q. In any event, when she got through with the telephone she told you what?

A. She told me she had contacted Graven in Seattle.

Q. Oh, by the way, during the time that you say Graven wanted money, he also wanted a large quantity of narcotics?

A. Yes, sir.

Q. You knew by that time, of course, that Shirley was a user?

A. Well, as much as I ever knew about her being a user.

Q. During the time you were supplying her under the name of Mike Sanders, did you have any reason to believe she wanted these for herself?

A. No, sir; I didn't at that time.

Q. At the time you talked to Kelly, as Graven, on May 16th, did you say he told you *he only* \$500, and did you ask [178] him about the narcotics?

A. No, sir; I didn't.

Q. Did he say anything to you about narcotics?

(Testimony of Dr. E. H. Teed.)

A. Except he wanted some for this man he said was in jail.

Q. That is the 100 grains?

A. One hundred tablets.

Q. That \$6,500 was for Bangs?

A. Yes, sir.

Q. Had you ever known Bangs?

A. No, sir.

Q. Had you ever heard of him?

A. I had heard of him.

Q. Did you make any investigation concerning Bangs to determine who he was?

A. No, I didn't.

Q. You made no inquiry? A. No.

Q. Except what Shirley told you?

A. That is all.

Q. And you left Shirley what time that Saturday?

A. That was about—it must have been about one o'clock.

Q. About one o'clock on Saturday afternoon when you gave her the \$3,000? A. Yes, sir.

Q. That was here in Spokane? [179]

A. Yes, sir.

Q. And the next morning she was back again?

A. No; Sunday evening she called me when she got back from Seattle.

Q. Sunday? What time Sunday?

A. About four-thirty or five o'clock; maybe a little later.

(Testimony of Dr. E. H. Teed.)

Q. Did she tell you what means of transportation she had used?

A. Yes, sir; she said she drove over. She said, "We drove over."

Q. "We?"

A. She said she had somebody drive her.

Q. They drove to Seattle between one o'clock on Saturday and back again by four o'clock Sunday afternoon?

A. Yes, sir.

Q. And did she say she was supposed to drive back again Sunday evening?

A. Yes, sir—no. She was supposed to have the other \$3,500 there by Monday evening.

Q. But sometime between Sunday—you didn't give her the money until Monday?

A. No.

Q. After the banks opened?

A. Yes, sir.

Q. And she was going to drive back again that afternoon?

A. Yes, sir. [180]

Q. Did you believe it?

A. It looked like a pretty big drive, but she said they had a good Buick car, and could drive it in four hours.

Q. Did she say anything about gas?

A. No. I don't think she mentioned anything about gas.

Q. Did you ask her about it?

A. No.

Q. You knew gas was rationed, of course?

A. Yes; I knew that.

Q. Did that arouse any suspicion in your mind?

A. No; I don't think so.

Q. You say you left the money with Miss Cook

(Testimony of Dr. E. H. Teed.)

for safekeeping. At the same time you had a safety deposit vault, did you not?

A. No, sir; I didn't.

Q. Or a bank account?

A. I had a checking account.

Q. Was there any reason why that money was not *place* in the checking account?

A. No particular reason, except I didn't want the money in my checking account.

Q. You considered it safer with her than in a safe deposit box?

A. Yes, sir. I figured that was about as safe as I could keep it. [181]

Q. Did you make any provision what was to happen to the money if you died?

A. Not particularly, except that it was a joint account.

Q. With her and her mother? A. Yes, sir.

Q. But you had no access to the account?

A. No, sir.

Q. And as far as they were concerned, if they should die in an automobile accident, the money was gone? A. I guess it would be.

Q. How much money did you have tied up that way?

A. That is all I had tied up that way?

Q. Was \$3,500 or \$3,000?

A. A little more than that. About \$5,000 in each account.

Q. About \$5,000 in each account?

A. Yes, sir.

(Testimony of Dr. E. H. Teed.)

The Court: How long had you had the money in these accounts?

A. One was opened in 1940 and the other in 1942.

The Court: What did you put it in those accounts for?

A. Just for safekeeping.

The Court: Safe against what?

A. In case somebody got a judgment against me or something, I might be able to salvage a little.

The Court: Was somebody threatening you with a suit? [182]

A. No, but you never know.

Q. (Mr. Gleeson): These were a part of your regular earnings? A. Yes, sir.

Q. Regularly reported on your income tax?

A. Yes, sir.

Q. And were they in a saving account or a checking account? A. A savings account.

Q. Who got the interest on the savings?

A. The interest was applied to the deposit.

Q. Did you place the amount there in a bulk sum or in small amounts? A. Small amounts.

Q. Over a period of about three or four years?

A. Well, not that long.

Q. About how long?

A. Oh, probably around a year.

Q. I think you said in 1940 or 1941?

A. The first was in 1940 and the other was opened in 1942.

(Testimony of Dr. E. H. Teed.)

Q. If you had these accounts in safekeeping from somebody who you thought might sue you sometimes, what was your reason for placing it in two accounts?

A. The only reason for placing it in two accounts is that an account up to \$5,000 is insured, and above that it is not.

Q. And you placed the two accounts for that reason? [183] A. Yes, sir.

Q. Did anyone else have knowledge that these accounts were there and belonged to you, other than Miss Cook and her mother?

A. I don't think so.

Q. Are you married? A. Yes, sir.

Q. And you have a family? A. Yes, sir.

Q. And your wife knew nothing of this arrangement?

Mr. Connelly: I object to that as not proper cross-examination, and as not being material or relevant to the inquiry we are conducting here.

The Court: The objection is overruled.

Q. (Mr. Gleeson): Did your wife know anything about it?

A. If she did I didn't know anything about it.

Q. How long did Miss Cook work for you?

A. Since 1935.

Q. When you paid these amounts to Miss Cook for deposit in her name, did you take any receipt from her? A. No, sir.

Q. Did you have any acknowledgement of any

(Testimony of Dr. E. H. Teed.)

kind from Miss Cook that these monies belonged to you? A. No.

Q. Had her mother ever worked for you? [184]

A. No, sir.

Q. She opened the first account in 1940 or 1941, and when was the next one opened?

A. The first one was in 1940 and the second was in 1942.

Q. Did you see Wesley Doores at any time prior to the time he came up there on May 24th to get this prescription? A. May 16th.

Q. Between the 16th and the 24th?

A. No. I had never seen him before that.

Q. This letter is dated May 24th, and I see in the upper lefthand corner May 27th. Do you know what that indicates—May 27th?

A. I think that must be the time I turned it over to the FBI.

Q. But in any event, prior to the 24th you had never seen the man? A. No.

Q. Except you say on May 16th you might have?

A. No, sir.

Q. You never saw him after that until this matter came up? A. No.

Mr. Gleeson: That is all.

Re-Direct Examination

By Mr. Connelly:

Q. Why didn't you go and look up Shirley Doores after Mr. Kelly told you he had got only \$500 of this money, Doctor? [185]

(Testimony of Dr. E. H. Teed.)

A. Well, I suppose the reason I did not, I didn't think it would do any good or make any particular difference, and I didn't know whether he was telling the truth or whether he was just trying to trap me someway.

Q. You had also been told that some of this money went to Bangs, the Chief Inspector?

A. Yes, sir.

Q. And two narcotic agents who were in on it?

A. Yes, sir.

Q. And the other agent and a clerk to whom some of it was supposed to go?

A. Yes, sir.

Q. That is what you were told by Shirley?

A. Yes, sir.

Mr. Connelly: That is all.

Re-Cross Examination

By Mr. Gleeson:

Q. This note that Wesley Doores brought to you was dated May 24th. Was it delivered on the same day?

A. I couldn't remember what date he was there, but that is the date—I suppose that is the day he delivered it.

Q. Do you recall what time of day he was there?

A. It was in the afternoon. [186]

Q. Do you recall about what time in the afternoon?

A. No. I think probably around three—two or three o'clock.

Q. About around two or three o'clock in the afternoon of May 24th?

(Testimony of Dr. E. H. Teed.)

A. I wouldn't swear it was that day, but it was pretty close to that. It was after the 16th.

Q. You have no recollection, have you, at the time you received the note, it was dated in advance of the day he came there? A. No.

Mr. Gleeson: That is all.

Mr. Connelly: That is all.

(Witness excused) [[87]]

EDWARD T. HAY

called as a witness by the Plaintiff, first duly sworn,
testified as follows:

Direct Examination

By Mr. Connelly:

Q. State your name. A. Edward T. Hay.

Q. Where are you employed, Mr. Hay?

A. At the First Federal Savings & Loan Association.

Q. In Spokane? A. Yes, sir.

Q. You are an officer of that organization?

A. Vice-president.

Q. How long have you been identified with that banking organization? A. For 12 years.

Q. I will ask you to state whether or not you have any records of a savings account or stock-purchase savings account of Georgia Cook or Edna E. Cook, of 815 7th Street, Coeur d'Alene, Idaho?

A. Yes, sir; I do.

(Testimony of Edward T. Hay.)

Q. Will you state to the court and jury how substantial withdrawals are made from a savings account of the character I have just referred to?

The Court: Is there some different way when you draw out a certain sum of money? [188]

Mr. Connelly: I did not make it clear.

Q. May withdrawals be made in cash or by check? A. Yes, sir.

Q. Substantial withdrawals? A. Yes, sir.

Q. In or during the month of April, 1944, did your bank carry an account in the First National Bank of Spokane? A. Yes, sir.

Q. Did you issue your cashier's checks or drafts on the First National Bank of Spokane from your institution? A. Yes, sir.

Q. For depositors who were withdrawing substantial amounts from their accounts?

A. Yes, sir.

Q. I wish to direct your attention to plaintiff's identification numbered "19", and ask you to state what it is, and by what institution it has been issued, and what it represents.

A. It is a pass book issued by the First Federal Savings & Loan Association, in the name of Georgia Cook, of Coeur d'Alene, Idaho, under our number 19,248.

Q. Will you state whether or not any withdrawal as of April 7, 1944, is indicated on that pass book? A. It is.

Q. What is the amount of the withdrawal? [189]

A. Three thousand five hundred dollars.

(Testimony of Edward T. Hay.)

Q. I hand you plaintiff's identifications "20" and "21", and ask you to state what they are?

A. Identification "21" is our ledged record of the above-mentioned Account No. 19,248, in the name of Georgia or Edna Cook.

Q. What is "20"?

A. No. "20" is our ledged record No. 15,590, in the name of Edna E. or Georgia Cook.

Q. Is that a separate account?

A. Yes, sir; that is a separate account.

Q. Now handing you plaintiff's identification "23", I will ask you to state what it is, and what relation it may bear to plaintiff's identifications "19", "20" and "21"?

A. It is a check drawn on the First National Bank of Spokane, by the First Federal Savings & Loan Association, payable to Edward H. Teed, in the amount of \$3,500, dated April 7, 1944.

Q. Directing your attention to plaintiff's identification "21", I will ask you to state whether or not a withdrawal as of April 24, 1944, is indicated on that ledger sheet?

A. Yes, sir. There is a withdrawal of \$1,671.46.

Q. Handing you plaintiff's identification "22", state what it is and what relationship it bears to the testimony you have just given and to identification "21". [190]

A. Number "22" is a check drawn upon the First National Bank of Sponkane by the First Federal Savings & Loan Association, payable to

(Testimony of Edward T. Hay.)

Edward H. Teed, in the amount of \$1,671.46, dated April 24, 1944.

Mr. Connelly: I offer identifications "19", "20", "21", "22" and "23" in evidence.

(Short recess.)

The Court: Any objection to these exhibits?

Mr. Smith: Were these checks payable to the order of Edward H. Teed made that way at the direction of the owner of the accounts?

A. Yes, sir.

Mr. Smith: They gave you directions in writing what to do?

A. To the teller making the withdrawal orally.

Mr. Smith: Instead of making out the checks in whose name the account stood, you made them out to Edward H. Teed, at their direction?

A. Yes, sir.

Mr. Smith: We have no objection.

The Court: Did this \$1,671.46 close out the account?

A. One of them did. I do not remember which one.

The Court: Plaintiff's Exhibits "19", "20", "21", "22" and "23" are admitted.

(Cook pass book, "19", First Federal ledger record, "20", First Federal ledger record, "21", Check, First Federal to Teed, "22", Check, First Federal to Teed, "23", admitted in evidence.) [191]

(Testimony of Edward T. Hay.)

Mr. Connelly: That is all.

Mr. Smith: No questions.

(Witness excused.)

H. P. STOMMELL

called as a witness by the Plaintiff, first duly sworn,
testified as follows:

Direct Examination

By Mr. Connelly:

Q. What is your name?

A. H. P. Stommell.

Q. Where do you reside?

A. At Boise, Idaho?

Q. What is your business?

A. Manager of the Mountain Telephone & Telegraph Company.

Q. I will ask you if you have custody and control of tickets or records kept of long-distance calls in your area? A. I do.

Q. Going out of your area? A. Yes, sir.

Q. Have you a record of a long-distance telephone call from Haley, Idaho, to Walnut 1635, Spokane, for April 20, 1944? A. I have.

Mr. Connelly: May we mark a photostatic copy the same identification number? I would like to show the [192] original to the jury, and substitute the photostatic copy for the record.

The Court: You have no objection to the photostatic copy being substituted, Mr. Smith?

(Testimony of H. P. Stommell.)

Mr. Smith: None, Your Honor.

Q. (Mr. Connelly) Showing you plaintiff's identification "26", what place has that in your business?

A. This is the record of long-distance calls placed at Haley, Idaho, on April 20, 1944, and it was placed at Spokane, Walnut 1635, at 3:12 and the conversation was over at 3:16 p. m.

Q. Who placed the call?

A. We have no record of the party who called or the person called.

Mr. Connelly: I wish to offer plaintiff's identification "26" in evidence, and substitute the photostat, which is also marked "26" for the original.

Mr. Smith: No objection to the offer or to the substitution.

The Court: It may be admitted.

(Record of telephone call Haley, Idaho, to Spokane, April 20, 1944, admitted in evidence as plaintiff's exhibit "26".)

[Printer's Note]: Set out in full at page 59 of original reporter's transcript.

Mr. Smith: No cross-examination.

(Witness excused.) [193]